

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 601

**Representatives Beck, Adams, J.
Cosponsors: Representatives Retherford, Romanchuk, Brenner**

A BILL

To amend sections 5725.33 and 5747.01 and to enact 1
section 5747.014 of the Revised Code to authorize 2
taxpayers to continue applying certain expiring 3
federal tax provisions in calculating Ohio income 4
tax, and to declare an emergency. 5

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

Section 1. That sections 5725.33 and 5747.01 be amended and 6
section 5747.014 of the Revised Code be enacted to read as 7
follows: 8

Sec. 5725.33. (A) Except as otherwise provided in this 9
section, terms used in this section have the same meaning as 10
section 45D of the Internal Revenue Code, any related proposed, 11
temporary or final regulations promulgated under the Internal 12
Revenue Code, any rules or guidance of the internal revenue 13
service or the United States department of the treasury, and any 14
related rules or guidance issued by the community development 15
financial institutions fund of the United States department of the 16
treasury, as such law, regulations, rules, and guidance exist on 17
October 16, 2009. 18

As used in this section: 19

(1) "Adjusted purchase price" means the amount paid for qualified equity investments multiplied by the qualified low-income community investments made by the issuer in projects located in this state as a percentage of the total amount of qualified low-income community investments made by the issuer in projects located in all states on the credit allowance date during the applicable tax year, subject to divisions (B)(1) and (2) of this section.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after October 16, 2009, but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day of January of each year.

(4) "Qualified active low-income community business" excludes any business that derives or projects to derive fifteen per cent or more of annual revenue from the rental or sale of real property, except any business that is a special purpose entity principally owned by a principal user of that property formed solely for the purpose of renting, either directly or indirectly, or selling real property back to such principal user if such principal user does not derive fifteen per cent or more of its gross annual revenue from the rental or sale of real property.

(5) "Qualified community development entity" includes only entities:

~~(a) That~~ that have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits

authorized by section 45D of the Internal Revenue Code;	53
(b) Whose and whose service area includes any portion of this state; and	54 55
(e) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.	56 57 58
(6) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:	59 60
(a) Is acquired after October 16, 2009, at its original issuance solely in exchange for cash;	61 62
(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments; and	63 64 65 66 67 68 69
(c) Is designated by the issuer as a qualified equity investment.	70 71
"Qualified equity investment" includes any equity investment that would, but for division (A)(6)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.	72 73 74 75 76
(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price of qualified low-income community investments, subject to divisions (B)(1) and (2) of this section:	77 78 79 80 81 82 83

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised

Code with respect to the time limitation for the assessment of 118
taxes as it relates to credits claimed that later become subject 119
to recapture under division (E) of this section. 120

(C) The amount of qualified equity investments on the basis 121
of which credits may be claimed under this section and sections 122
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 123
the amount, estimated by the director of development, that would 124
cause the total amount of credits allowed each fiscal year to 125
exceed ten million dollars, computed without regard to the 126
potential for taxpayers to carry tax credits forward to later 127
years. 128

(D) If any amount of ~~the~~ federal tax credit allowed for a 129
qualified equity investment for which a credit was received under 130
this section is recaptured under section 45D of the Internal 131
Revenue Code, or if the director of development services 132
determines that an investment for which a tax credit is claimed 133
under this section is not a qualified equity investment or that 134
the proceeds of an investment for which a tax credit is claimed 135
under this section are used to make qualified low-income community 136
investments other than in a qualified active low-income community 137
business, all or a portion of the credit received on account of 138
that investment shall be paid by the insurance company that 139
received the credit to the superintendent of insurance. The amount 140
to be recovered shall be determined by the director of development 141
services pursuant to rules adopted under division (E) of this 142
section. The director shall certify any amount due under this 143
division to the superintendent of insurance, and the 144
superintendent shall notify the treasurer of state of the amount 145
due. Upon notification, the treasurer shall invoice the insurance 146
company for the amount due. The amount due is payable not later 147
than thirty days after the date the treasurer invoices the 148
insurance company. The amount due shall be considered to be tax 149
due under section 5725.18 of the Revised Code, and may be 150
collected by assessment without regard to the time limitations 151
imposed under section 5725.222 of the Revised Code for the 152
assessment of taxes by the superintendent. All amounts collected 153

under this division shall be credited as revenue from the tax 154
levied under section 5725.18 of the Revised Code. 155

(E) The tax credits authorized under this section and 156
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 157
be administered by the department of development services. The 158
director of development services, in consultation with the tax 159
commissioner and the superintendent of insurance, pursuant to 160
Chapter 119. of the Revised Code, shall adopt rules for the 161
administration of this section and sections 5726.54, 5729.16, and 162
5733.58 of the Revised Code. The rules shall provide for 163
determining the recovery of credits under division (D) of this 164
section and under sections 5726.54, 5729.16, and 5733.58 of the 165
Revised Code, including prorating the amount of the credit to be 166
recovered on any reasonable basis, the manner in which credits may 167
be allocated among claimants, and the amount of any application or 168
other fees to be charged in connection with a recovery. 169

(F) There is hereby created in the state treasury the new 170
markets tax credit operating fund. The director of development 171
services is authorized to charge reasonable application and other 172
fees in connection with the administration of tax credits 173
authorized by this section and sections 5726.54, 5729.16, and 174
5733.58 of the Revised Code. Any such fees collected shall be 175
credited to the fund. The director of development services shall 176
use money in the fund to pay expenses related to the 177
administration of tax credits authorized under sections 5725.33, 178
5726.54, 5729.16, and 5733.58 of the Revised Code. 179

Sec. 5747.01. Except as otherwise expressly provided or 180
clearly appearing from the context, any term used in this chapter 181
that is not otherwise defined in this section has the same meaning 182
as when used in a comparable context in the laws of the United 183
States relating to federal income taxes or if not used in a 184
comparable context in those laws, has the same meaning as in 185
section 5733.40 of the Revised Code. Any reference in this chapter 186
to the Internal Revenue Code includes other laws of the United 187
States relating to federal income taxes. 188

As used in this chapter:	189
(A) "Adjusted gross income" or "Ohio adjusted gross income"	190
means federal adjusted gross income, as defined and used in the	191
Internal Revenue Code, adjusted as provided in this section:	192
(1) Add interest or dividends on obligations or securities of	193
any state or of any political subdivision or authority of any	194
state, other than this state and its subdivisions and authorities.	195
(2) Add interest or dividends on obligations of any	196
authority, commission, instrumentality, territory, or possession	197
of the United States to the extent that the interest or dividends	198
are exempt from federal income taxes but not from state income	199
taxes.	200
(3) Deduct interest or dividends on obligations of the United	201
States and its territories and possessions or of any authority,	202
commission, or instrumentality of the United States to the extent	203
that the interest or dividends are included in federal adjusted	204
gross income but exempt from state income taxes under the laws of	205
the United States.	206
(4) Deduct disability and survivor's benefits to the extent	207
included in federal adjusted gross income.	208
(5) Deduct benefits under Title II of the Social Security Act	209
and tier 1 railroad retirement benefits to the extent included in	210
federal adjusted gross income under section 86 of the Internal	211
Revenue Code.	212
(6) In the case of a taxpayer who is a beneficiary of a trust	213
that makes an accumulation distribution as defined in section 665	214
of the Internal Revenue Code, add, for the beneficiary's taxable	215
years beginning before 2002, the portion, if any, of such	216
distribution that does not exceed the undistributed net income of	217
the trust for the three taxable years preceding the taxable year	218
in which the distribution is made to the extent that the portion	219

was not included in the trust's taxable income for any of the	220
trust's taxable years beginning in 2002 or thereafter.	221
"Undistributed net income of a trust" means the taxable income of	222
the trust increased by (a)(i) the additions to adjusted gross	223
income required under division (A) of this section and (ii) the	224
personal exemptions allowed to the trust pursuant to section	225
642(b) of the Internal Revenue Code, and decreased by (b)(i) the	226
deductions to adjusted gross income required under division (A) of	227
this section, (ii) the amount of federal income taxes attributable	228
to such income, and (iii) the amount of taxable income that has	229
been included in the adjusted gross income of a beneficiary by	230
reason of a prior accumulation distribution. Any undistributed net	231
income included in the adjusted gross income of a beneficiary	232
shall reduce the undistributed net income of the trust commencing	233
with the earliest years of the accumulation period.	234
(7) Deduct the amount of wages and salaries, if any, not	235
otherwise allowable as a deduction but that would have been	236
allowable as a deduction in computing federal adjusted gross	237
income for the taxable year, had the targeted jobs credit allowed	238
and determined under sections 38, 51, and 52 of the Internal	239
Revenue Code not been in effect.	240
(8) Deduct any interest or interest equivalent on public	241
obligations and purchase obligations to the extent that the	242
interest or interest equivalent is included in federal adjusted	243
gross income.	244
(9) Add any loss or deduct any gain resulting from the sale,	245
exchange, or other disposition of public obligations to the extent	246
that the loss has been deducted or the gain has been included in	247
computing federal adjusted gross income.	248
(10) Deduct or add amounts, as provided under section 5747.70	249
of the Revised Code, related to contributions to variable college	250
savings program accounts made or tuition units purchased pursuant	251
to Chapter 3334. of the Revised Code.	252
(11)(a) Deduct, to the extent not otherwise allowable as a	253

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

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

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

(d) For purposes of division (A)(11) of this section,

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

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

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

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

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

(b) It does not otherwise reduce the taxpayer's adjusted

gross income for the current or any other taxable year.	322
(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.	323 324 325 326 327 328 329
(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;	330 331 332 333 334 335
(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.	336 337 338
(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:	339 340 341
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	342 343 344 345
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	346 347 348
(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax	349 350 351 352 353

commissioner, the taxpayer shall provide any information that, in 354
the tax commissioner's opinion, is necessary to establish the 355
amount deducted under division (A)(17) of this section. 356

(18) Beginning in taxable year 2001 but not for any taxable 357
year beginning after December 31, 2005, if the taxpayer is married 358
and files a joint return and the combined federal adjusted gross 359
income of the taxpayer and the taxpayer's spouse for the taxable 360
year does not exceed one hundred thousand dollars, or if the 361
taxpayer is single and has a federal adjusted gross income for the 362
taxable year not exceeding fifty thousand dollars, deduct amounts 363
paid during the taxable year for qualified tuition and fees paid 364
to an eligible institution for the taxpayer, the taxpayer's 365
spouse, or any dependent of the taxpayer, who is a resident of 366
this state and is enrolled in or attending a program that 367
culminates in a degree or diploma at an eligible institution. The 368
deduction may be claimed only to the extent that qualified tuition 369
and fees are not otherwise deducted or excluded for any taxable 370
year from federal or Ohio adjusted gross income. The deduction may 371
not be claimed for educational expenses for which the taxpayer 372
claims a credit under section 5747.27 of the Revised Code. 373

(19) Add any reimbursement received during the taxable year 374
of any amount the taxpayer deducted under division (A)(18) of this 375
section in any previous taxable year to the extent the amount is 376
not otherwise included in Ohio adjusted gross income. 377

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 378
(v) of this section, add five-sixths of the amount of depreciation 379
expense allowed by subsection (k) of section 168 of the Internal 380
Revenue Code, including the taxpayer's proportionate or 381
distributive share of the amount of depreciation expense allowed 382
by that subsection to a pass-through entity in which the taxpayer 383
has a direct or indirect ownership interest. 384

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 385
this section, add five-sixths of the amount of qualifying section 386
179 depreciation expense, including the taxpayer's proportionate 387

or distributive share of the amount of qualifying section 179 388
depreciation expense allowed to any pass-through entity in which 389
the taxpayer has a direct or indirect ownership interest. 390

(iii) Subject to division (A)(20)(a)(v) of this section, for 391
taxable years beginning in 2012 or thereafter, if the increase in 392
income taxes withheld by the taxpayer is equal to or greater than 393
ten per cent of income taxes withheld by the taxpayer during the 394
taxpayer's immediately preceding taxable year, "two-thirds" shall 395
be substituted for "five-sixths" for the purpose of divisions 396
(A)(20)(a)(i) and (ii) of this section. 397

(iv) Subject to division (A)(20)(a)(v) of this section, for 398
taxable years beginning in 2012 or thereafter, a taxpayer is not 399
required to add an amount under division (A)(20) of this section 400
if the increase in income taxes withheld by the taxpayer and by 401
any pass-through entity in which the taxpayer has a direct or 402
indirect ownership interest is equal to or greater than the sum of 403
(I) the amount of qualifying section 179 depreciation expense and 404
(II) the amount of depreciation expense allowed to the taxpayer by 405
subsection (k) of section 168 of the Internal Revenue Code, and 406
including the taxpayer's proportionate or distributive shares of 407
such amounts allowed to any such pass-through entities. 408

(v) If a taxpayer directly or indirectly incurs a net 409
operating loss for the taxable year for federal income tax 410
purposes, to the extent such loss resulted from depreciation 411
expense allowed by subsection (k) of section 168 of the Internal 412
Revenue Code and by qualifying section 179 depreciation expense, 413
"the entire" shall be substituted for "five-sixths of the" for the 414
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 415

The tax commissioner, under procedures established by the 416
commissioner, may waive the add-backs related to a pass-through 417
entity if the taxpayer owns, directly or indirectly, less than 418
five per cent of the pass-through entity. 419

(b) Nothing in division (A)(20) of this section shall be 420

construed to adjust or modify the adjusted basis of any asset.	421
(c) To the extent the add-back required under division	422
(A)(20)(a) of this section is attributable to property generating	423
nonbusiness income or loss allocated under section 5747.20 of the	424
Revised Code, the add-back shall be situated to the same location	425
as the nonbusiness income or loss generated by the property for	426
the purpose of determining the credit under division (A) of	427
section 5747.05 of the Revised Code. Otherwise, the add-back shall	428
be apportioned, subject to one or more of the four alternative	429
methods of apportionment enumerated in section 5747.21 of the	430
Revised Code.	431
(d) For the purposes of division (A)(20)(a)(v) of this	432
section, net operating loss carryback and carryforward shall not	433
include the allowance of any net operating loss deduction	434
carryback or carryforward to the taxable year to the extent such	435
loss resulted from depreciation allowed by section 168(k) of the	436
Internal Revenue Code and by the qualifying section 179	437
depreciation expense amount.	438
(e) For the purposes of divisions (A)(20) and (21) of this	439
section:	440
(i) "Income taxes withheld" means the total amount withheld	441
and remitted under sections 5747.06 and 5747.07 of the Revised	442
Code by an employer during the employer's taxable year.	443
(ii) "Increase in income taxes withheld" means the amount by	444
which the amount of income taxes withheld by an employer during	445
the employer's current taxable year exceeds the amount of income	446
taxes withheld by that employer during the employer's immediately	447
preceding taxable year.	448
(iii) "Qualifying section 179 depreciation expense" means the	449
difference between (I) the amount of depreciation expense directly	450
or indirectly allowed to a taxpayer under section 179 of the	451
Internal Revised Code, and (II) the amount of depreciation expense	452
directly or indirectly allowed to the taxpayer under section 179	453

of the Internal Revenue Code as that section existed on December 31, 2002.	454 455
(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one of the following:	456 457 458
(i) One-fifth of the amount so added for each of the five succeeding taxable years if the amount so added was five-sixths of qualifying section 179 depreciation expense or depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code;	459 460 461 462 463
(ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense;	464 465 466
(iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added.	467 468 469
(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.	470 471 472 473 474 475 476 477
(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division	478 479 480 481 482 483 484 485 486

(A)(21)(a) of this section for that next taxable year. The	487
carryforward of amounts not so deducted shall continue until the	488
entire addition required by division (A)(20)(a) of this section	489
has been deducted.	490
(d) No refund shall be allowed as a result of adjustments	491
made by division (A)(21) of this section.	492
(22) Deduct, to the extent not otherwise deducted or excluded	493
in computing federal or Ohio adjusted gross income for the taxable	494
year, the amount the taxpayer received during the taxable year as	495
reimbursement for life insurance premiums under section 5919.31 of	496
the Revised Code.	497
(23) Deduct, to the extent not otherwise deducted or excluded	498
in computing federal or Ohio adjusted gross income for the taxable	499
year, the amount the taxpayer received during the taxable year as	500
a death benefit paid by the adjutant general under section 5919.33	501
of the Revised Code.	502
(24) Deduct, to the extent included in federal adjusted gross	503
income and not otherwise allowable as a deduction or exclusion in	504
computing federal or Ohio adjusted gross income for the taxable	505
year, military pay and allowances received by the taxpayer during	506
the taxable year for active duty service in the United States	507
army, air force, navy, marine corps, or coast guard or reserve	508
components thereof or the national guard. The deduction may not be	509
claimed for military pay and allowances received by the taxpayer	510
while the taxpayer is stationed in this state.	511
(25) Deduct, to the extent not otherwise allowable as a	512
deduction or exclusion in computing federal or Ohio adjusted gross	513
income for the taxable year and not otherwise compensated for by	514
any other source, the amount of qualified organ donation expenses	515
incurred by the taxpayer during the taxable year, not to exceed	516
ten thousand dollars. A taxpayer may deduct qualified organ	517
donation expenses only once for all taxable years beginning with	518
taxable years beginning in 2007.	519

For the purposes of division (A)(25) of this section:	520
(a) "Human organ" means all or any portion of a human liver,	521
pancreas, kidney, intestine, or lung, and any portion of human	522
bone marrow.	523
(b) "Qualified organ donation expenses" means travel	524
expenses, lodging expenses, and wages and salary forgone by a	525
taxpayer in connection with the taxpayer's donation, while living,	526
of one or more of the taxpayer's human organs to another human	527
being.	528
(26) Deduct, to the extent not otherwise deducted or excluded	529
in computing federal or Ohio adjusted gross income for the taxable	530
year, amounts received by the taxpayer as retired personnel pay	531
for service in the uniformed services or reserve components	532
thereof, or the national guard, or received by the surviving	533
spouse or former spouse of such a taxpayer under the survivor	534
benefit plan on account of such a taxpayer's death. If the	535
taxpayer receives income on account of retirement paid under the	536
federal civil service retirement system or federal employees	537
retirement system, or under any successor retirement program	538
enacted by the congress of the United States that is established	539
and maintained for retired employees of the United States	540
government, and such retirement income is based, in whole or in	541
part, on credit for the taxpayer's uniformed service, the	542
deduction allowed under this division shall include only that	543
portion of such retirement income that is attributable to the	544
taxpayer's uniformed service, to the extent that portion of such	545
retirement income is otherwise included in federal adjusted gross	546
income and is not otherwise deducted under this section. Any	547
amount deducted under division (A)(26) of this section is not	548
included in a taxpayer's adjusted gross income for the purposes of	549
section 5747.055 of the Revised Code. No amount may be deducted	550
under division (A)(26) of this section on the basis of which a	551
credit was claimed under section 5747.055 of the Revised Code.	552
(27) Deduct, to the extent not otherwise deducted or excluded	553

in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.	554 555 556 557
(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.	558 559 560 561 562
(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	563 564 565 566 567
(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.	568 569 570 571 572 573 574 575 576 577 578 579
(31) Deduct one-half of the taxpayer's Ohio small business investor income, the deduction not to exceed sixty-two thousand five hundred dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or one hundred twenty-five thousand dollars for all other taxpayers. No pass-through entity may claim a deduction under this division.	580 581 582 583 584 585
For the purposes of this division, "Ohio small business investor income" means the portion of a taxpayer's adjusted gross	586 587

income that is business income reduced by deductions from business 588
income and apportioned or allocated to this state under sections 589
5747.21 and 5747.22 of the Revised Code, to the extent not 590
otherwise deducted or excluded in computing federal or Ohio 591
adjusted gross income for the taxable year. 592

(32) Adjust the amount as required in section 5747.014 of the 593
Revised Code. 594

(B) "Business income" means income, including gain or loss, 595
arising from transactions, activities, and sources in the regular 596
course of a trade or business and includes income, gain, or loss 597
from real property, tangible property, and intangible property if 598
the acquisition, rental, management, and disposition of the 599
property constitute integral parts of the regular course of a 600
trade or business operation. "Business income" includes income, 601
including gain or loss, from a partial or complete liquidation of 602
a business, including, but not limited to, gain or loss from the 603
sale or other disposition of goodwill. 604

(C) "Nonbusiness income" means all income other than business 605
income and may include, but is not limited to, compensation, rents 606
and royalties from real or tangible personal property, capital 607
gains, interest, dividends and distributions, patent or copyright 608
royalties, or lottery winnings, prizes, and awards. 609

(D) "Compensation" means any form of remuneration paid to an 610
employee for personal services. 611

(E) "Fiduciary" means a guardian, trustee, executor, 612
administrator, receiver, conservator, or any other person acting 613
in any fiduciary capacity for any individual, trust, or estate. 614

(F) "Fiscal year" means an accounting period of twelve months 615
ending on the last day of any month other than December. 616

(G) "Individual" means any natural person. 617

(H) "Internal Revenue Code" means the "Internal Revenue Code 618

of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 619

(I) "Resident" means any of the following, provided that 620
division (I)(3) of this section applies only to taxable years of a 621
trust beginning in 2002 or thereafter: 622

(1) An individual who is domiciled in this state, subject to 623
section 5747.24 of the Revised Code; 624

(2) The estate of a decedent who at the time of death was 625
domiciled in this state. The domicile tests of section 5747.24 of 626
the Revised Code are not controlling for purposes of division 627
(I)(2) of this section. 628

(3) A trust that, in whole or part, resides in this state. If 629
only part of a trust resides in this state, the trust is a 630
resident only with respect to that part. 631

For the purposes of division (I)(3) of this section: 632

(a) A trust resides in this state for the trust's current 633
taxable year to the extent, as described in division (I)(3)(d) of 634
this section, that the trust consists directly or indirectly, in 635
whole or in part, of assets, net of any related liabilities, that 636
were transferred, or caused to be transferred, directly or 637
indirectly, to the trust by any of the following: 638

(i) A person, a court, or a governmental entity or 639
instrumentality on account of the death of a decedent, but only if 640
the trust is described in division (I)(3)(e)(i) or (ii) of this 641
section; 642

(ii) A person who was domiciled in this state for the 643
purposes of this chapter when the person directly or indirectly 644
transferred assets to an irrevocable trust, but only if at least 645
one of the trust's qualifying beneficiaries is domiciled in this 646
state for the purposes of this chapter during all or some portion 647
of the trust's current taxable year; 648

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

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

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

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

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources

enumerated in division (I)(3)(a) of this section. The denominator
of the qualifying ratio is the fair market value of all the
trust's assets at that time, net of any related liabilities.

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

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

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

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

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

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

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

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

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

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

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

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.	749 750 751 752 753 754
(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.	755 756
(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.	757 758 759 760
(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.	761 762
(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.	763 764 765 766
(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.	767 768 769 770
(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.	771 772 773 774
(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.	775 776 777 778 779

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.	780 781 782 783 784
(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:	785 786
(1) "Subdivision" means any county, municipal corporation, park district, or township.	787 788
(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.	789 790 791 792
(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.	793 794
(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:	795 796 797
(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:	798 799 800 801 802 803 804 805
(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;	806 807 808
(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.	809 810

(2) Add interest or dividends, net of ordinary, necessary,	811
and reasonable expenses not deducted in computing federal taxable	812
income, on obligations of any authority, commission,	813
instrumentality, territory, or possession of the United States to	814
the extent that the interest or dividends are exempt from federal	815
income taxes but not from state income taxes, but only to the	816
extent that such net amount is not otherwise includible in Ohio	817
taxable income and is described in either division (S)(1)(a) or	818
(b) of this section;	819
(3) Add the amount of personal exemption allowed to the	820
estate pursuant to section 642(b) of the Internal Revenue Code;	821
(4) Deduct interest or dividends, net of related expenses	822
deducted in computing federal taxable income, on obligations of	823
the United States and its territories and possessions or of any	824
authority, commission, or instrumentality of the United States to	825
the extent that the interest or dividends are exempt from state	826
taxes under the laws of the United States, but only to the extent	827
that such amount is included in federal taxable income and is	828
described in either division (S)(1)(a) or (b) of this section;	829
(5) Deduct the amount of wages and salaries, if any, not	830
otherwise allowable as a deduction but that would have been	831
allowable as a deduction in computing federal taxable income for	832
the taxable year, had the targeted jobs credit allowed under	833
sections 38, 51, and 52 of the Internal Revenue Code not been in	834
effect, but only to the extent such amount relates either to	835
income included in federal taxable income for the taxable year or	836
to income of the S portion of an electing small business trust for	837
the taxable year;	838
(6) Deduct any interest or interest equivalent, net of	839
related expenses deducted in computing federal taxable income, on	840
public obligations and purchase obligations, but only to the	841
extent that such net amount relates either to income included in	842
federal taxable income for the taxable year or to income of the S	843
portion of an electing small business trust for the taxable year;	844

(7) Add any loss or deduct any gain resulting from sale,	845
exchange, or other disposition of public obligations to the extent	846
that such loss has been deducted or such gain has been included in	847
computing either federal taxable income or income of the S portion	848
of an electing small business trust for the taxable year;	849
(8) Except in the case of the final return of an estate, add	850
any amount deducted by the taxpayer on both its Ohio estate tax	851
return pursuant to section 5731.14 of the Revised Code, and on its	852
federal income tax return in determining federal taxable income;	853
(9)(a) Deduct any amount included in federal taxable income	854
solely because the amount represents a reimbursement or refund of	855
expenses that in a previous year the decedent had deducted as an	856
itemized deduction pursuant to section 63 of the Internal Revenue	857
Code and applicable treasury regulations. The deduction otherwise	858
allowed under division (S)(9)(a) of this section shall be reduced	859
to the extent the reimbursement is attributable to an amount the	860
taxpayer or decedent deducted under this section in any taxable	861
year.	862
(b) Add any amount not otherwise included in Ohio taxable	863
income for any taxable year to the extent that the amount is	864
attributable to the recovery during the taxable year of any amount	865
deducted or excluded in computing federal or Ohio taxable income	866
in any taxable year, but only to the extent such amount has not	867
been distributed to beneficiaries for the taxable year.	868
(10) Deduct any portion of the deduction described in section	869
1341(a)(2) of the Internal Revenue Code, for repaying previously	870
reported income received under a claim of right, that meets both	871
of the following requirements:	872
(a) It is allowable for repayment of an item that was	873
included in the taxpayer's taxable income or the decedent's	874
adjusted gross income for a prior taxable year and did not qualify	875
for a credit under division (A) or (B) of section 5747.05 of the	876
Revised Code for that year.	877

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.	878 879 880
(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of the following:	881 882 883
(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	884 885 886 887
(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	888 889 890
(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.	891 892 893 894 895 896 897 898 899 900 901 902
Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.	903 904 905 906 907 908
(13) Add the net amount of income described in section 641(c)	909

of the Internal Revenue Code to the extent that amount is not included in federal taxable income.	910 911
(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.	912 913 914 915 916 917 918
(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.	919 920
(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.	921 922 923 924
(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.	925 926 927
(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.	928 929 930 931
(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.	932 933
(Y) "Month" means a calendar month.	934
(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.	935 936 937
(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section	938 939

3345.011 of the Revised Code, or a private, nonprofit college, 940
university, or other post-secondary institution located in this 941
state that possesses a certificate of authorization issued by the 942
Ohio board of regents pursuant to Chapter 1713. of the Revised 943
Code or a certificate of registration issued by the state board of 944
career colleges and schools under Chapter 3332. of the Revised 945
Code. 946

(2) "Qualified tuition and fees" means tuition and fees 947
imposed by an eligible institution as a condition of enrollment or 948
attendance, not exceeding two thousand five hundred dollars in 949
each of the individual's first two years of post-secondary 950
education. If the individual is a part-time student, "qualified 951
tuition and fees" includes tuition and fees paid for the academic 952
equivalent of the first two years of post-secondary education 953
during a maximum of five taxable years, not exceeding a total of 954
five thousand dollars. "Qualified tuition and fees" does not 955
include: 956

(a) Expenses for any course or activity involving sports, 957
games, or hobbies unless the course or activity is part of the 958
individual's degree or diploma program; 959

(b) The cost of books, room and board, student activity fees, 960
athletic fees, insurance expenses, or other expenses unrelated to 961
the individual's academic course of instruction; 962

(c) Tuition, fees, or other expenses paid or reimbursed 963
through an employer, scholarship, grant in aid, or other 964
educational benefit program. 965

(BB)(1) "Modified business income" means the business income 966
included in a trust's Ohio taxable income after such taxable 967
income is first reduced by the qualifying trust amount, if any. 968

(2) "Qualifying trust amount" of a trust means capital gains 969
and losses from the sale, exchange, or other disposition of equity 970
or ownership interests in, or debt obligations of, a qualifying 971
investee to the extent included in the trust's Ohio taxable 972

income, but only if the following requirements are satisfied:	973
(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.	974 975 976 977 978
(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.	979 980 981
Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.	982 983 984
(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.	985 986 987 988 989 990
(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:	991 992 993
(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:	994 995 996
(i) The trust's modified business income;	997
(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.	998 999 1000 1001 1002

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

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

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

If the allocation and apportionment of a trust's income under

divisions (BB)(4)(a) and (c) of this section do not fairly 1038
represent the modified Ohio taxable income of the trust in this 1039
state, the alternative methods described in division (C) of 1040
section 5747.21 of the Revised Code may be applied in the manner 1041
and to the same extent provided in that section. 1042

(5)(a) Except as set forth in division (BB)(5)(b) of this 1043
section, "qualifying investee" means a person in which a trust has 1044
an equity or ownership interest, or a person or unit of government 1045
the debt obligations of either of which are owned by a trust. For 1046
the purposes of division (BB)(2)(a) of this section and for the 1047
purpose of computing the fraction described in division (BB)(4)(b) 1048
of this section, all of the following apply: 1049

(i) If the qualifying investee is a member of a qualifying 1050
controlled group on the last day of the qualifying investee's 1051
fiscal or calendar year ending immediately prior to the date on 1052
which the trust recognizes the gain or loss, then "qualifying 1053
investee" includes all persons in the qualifying controlled group 1054
on such last day. 1055

(ii) If the qualifying investee, or if the qualifying 1056
investee and any members of the qualifying controlled group of 1057
which the qualifying investee is a member on the last day of the 1058
qualifying investee's fiscal or calendar year ending immediately 1059
prior to the date on which the trust recognizes the gain or loss, 1060
separately or cumulatively own, directly or indirectly, on the 1061
last day of the qualifying investee's fiscal or calendar year 1062
ending immediately prior to the date on which the trust recognizes 1063
the qualifying trust amount, more than fifty per cent of the 1064
equity of a pass-through entity, then the qualifying investee and 1065
the other members are deemed to own the proportionate share of the 1066
pass-through entity's physical assets which the pass-through 1067
entity directly or indirectly owns on the last day of the 1068
pass-through entity's calendar or fiscal year ending within or 1069
with the last day of the qualifying investee's fiscal or calendar 1070
year ending immediately prior to the date on which the trust 1071
recognizes the qualifying trust amount. 1072

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the

following apply:	1108
(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.	1109 1110 1111 1112
(ii) Such gain or loss constitutes nonbusiness income.	1113
(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.	1114 1115 1116 1117
(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.	1118 1119
(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	1120 1121
(EE)(1) For the purposes of division (EE) of this section:	1122
(a) "Qualifying person" means any person other than a qualifying corporation.	1123 1124
(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:	1125 1126 1127
(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;	1128 1129 1130 1131
(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.	1132 1133 1134 1135

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.	1136 1137 1138
(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:	1139 1140
(1) "Trust" does not include a qualified pre-income tax trust.	1141 1142
(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.	1143 1144 1145
(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.	1146 1147 1148 1149 1150 1151 1152 1153 1154 1155 1156
(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:	1157 1158
(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;	1159 1160
(b) The trust became irrevocable upon the creation of the trust; and	1161 1162
(c) The grantor was domiciled in this state at the time the trust was created.	1163 1164
(GG) "Uniformed services" has the same meaning as in 10	1165

U.S.C. 101.	1166
<u>Sec. 5747.014. In calculating Ohio adjusted gross income</u>	1167
<u>under section 5747.01 of the Revised Code, a taxpayer may make the</u>	1168
<u>following adjustments:</u>	1169
<u>(A) To the extent not otherwise deducted or excluded in</u>	1170
<u>computing federal or Ohio adjusted gross income for the taxable</u>	1171
<u>year, deduct the following amounts for any taxable year beginning</u>	1172
<u>on or after January 1, 2014:</u>	1173
<u>(1) Expenses of elementary and secondary school teachers that</u>	1174
<u>would have been deductible under section 62 of the Internal</u>	1175
<u>Revenue Code had that deduction applied to taxable years beginning</u>	1176
<u>in or after 2014;</u>	1177
<u>(2) Income from the discharge of indebtedness that would be</u>	1178
<u>excludable from federal adjusted gross income under section 108 of</u>	1179
<u>the Internal Revenue Code disregarding the deadline for the</u>	1180
<u>discharge of such indebtedness prescribed by subparagraph</u>	1181
<u>(a)(1)(E) of that section;</u>	1182
<u>(3) Qualified transportation fringes that would be excludable</u>	1183
<u>from federal adjusted gross income under subsection 132(f) of the</u>	1184
<u>Internal Revenue Code had that exclusion applied on and after</u>	1185
<u>January 1, 2014;</u>	1186
<u>(4) Qualified tuition and related expenses that would be</u>	1187
<u>deductible from federal adjusted gross income under section 222 of</u>	1188
<u>the Internal Revenue Code disregarding the termination date</u>	1189
<u>prescribed by subsection (e) of that section;</u>	1190
<u>(5) Qualified charitable distributions that would be</u>	1191
<u>excludable from federal adjusted gross income under paragraph (8)</u>	1192
<u>of subsection 408(d) of the Internal Revenue Code disregarding the</u>	1193
<u>termination date prescribed by subparagraph (d)(8)(F) of that</u>	1194
<u>section.</u>	1195
<u>(B) Adjust the cost recovery period for race horses</u>	1196

<u>disregarding the dates specified in subclauses (e)(3)(A)(i)(I) and (II) of section 168 of the Internal Revenue Code.</u>	1197
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<u>(C) Adjust cost recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property as allowed under subsection 168(e) of the Internal Revenue Code, disregarding the dates specified in clauses (e)(3)(E)(iv), (v), and (ix) of that subsection.</u>	1199
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<u>(D) Adjust the cost recovery period for motorsports entertainment complexes as allowed under subsection 168(i) of the Internal Revenue Code, disregarding the date specified in subparagraph (i)(15)(D) of that subsection.</u>	1204
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<u>(E) Adjust the depreciation for business property on an Indian reservation as allowed under subsection 168(j) of the Internal Revenue Code, disregarding the date specified in paragraph (j)(8) of that subsection.</u>	1208
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<u>(F) Adjust the depreciation of qualified property as allowed by paragraphs (1) and (2) of subsection 168(k) of the Internal Revenue Code, disregarding the phrases "and before January 1, 2014," "before January 1, 2014," and "before January 1, 2015," in those paragraphs and, if applicable, in paragraph (6) of subsection 406(c) of the Internal Revenue Code. If adjustments are made under division (F) of this section, the adjustments required under divisions (A)(20) and (21) of section 5747.01 of the Revised Code shall be made.</u>	1212
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<u>(G) Adjust the appreciation deduction and adjusted basis of qualified second generation biofuel plant property as allowed under subsection 168(l) of the Internal Revenue Code, disregarding the date specified in subparagraph (l)(2)(D) of that section.</u>	1221
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<u>(H) The adjustments allowed by section 179 of the Internal Revenue Code as if the election allowed by that section were allowed for the taxable year and the limitations of subparagraphs (1)(B) and (2)(B) of subsection (b) of that section applied to the taxable year, and disregarding, if applicable, the limitations on</u>	1225
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<u>taxable years specified in subsection (f) of that section. If</u>	1230
<u>adjustments are made under division (H) of this section, the</u>	1231
<u>adjustments required by divisions (A)(20) and (21) of section</u>	1232
<u>5747.01 of the Revised Code shall be made.</u>	1233
<u>(I) The adjustments for energy efficient commercial building</u>	1234
<u>property allowed by section 179D of the Internal Revenue Code,</u>	1235
<u>disregarding subsection (h) of that section.</u>	1236
<u>(J) The adjustments for qualified advanced mine safety</u>	1237
<u>equipment property allowed by section 179E of the Internal Revenue</u>	1238
<u>Code, disregarding subsection (g) of that section.</u>	1239
<u>(K) The adjustments for qualified film or television</u>	1240
<u>productions allowed by section 181 of the Internal Revenue Code,</u>	1241
<u>disregarding subsection (f) of that section.</u>	1242
<u>(L) The adjustments for income attributable to domestic</u>	1243
<u>production activities in Puerto Rico allowed by paragraph (8) of</u>	1244
<u>subsection 199(d) of the Internal Revenue Code, disregarding</u>	1245
<u>subparagraph (d)(8)(C) of that section.</u>	1246
<u>(M) The exclusion for gain from certain small business stock</u>	1247
<u>allowed by section 1202 of the Internal Revenue Code, applying</u>	1248
<u>subsection (a)(4) of that section, but disregarding the phrase</u>	1249
<u>"and before January 1, 2014."</u>	1250
<u>(N) The adjustments to basis allowed by paragraph (2) of</u>	1251
<u>subsection 1367(a) of the Internal Revenue Code for charitable</u>	1252
<u>contributions, disregarding the December 31, 2013, termination</u>	1253
<u>date prescribed by that paragraph.</u>	1254
<u>(O) Any adjustment to federal gross income that would be</u>	1255
<u>allowed if the designation period of an empowerment zone did not</u>	1256
<u>terminate on December 31, 2013, as provided in paragraph (1) of</u>	1257
<u>subsection 1391(d) of the Internal Revenue Code. This division</u>	1258
<u>does not allow any adjustment for a taxable year beginning after</u>	1259
<u>any earlier termination of the designation period under</u>	1260
<u>subparagraphs (B) and (C) of that paragraph.</u>	1261

Section 2. That existing sections 5725.33 and 5747.01 of the Revised Code are hereby repealed. 1262
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Section 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to ensure that Ohio taxpayers continue receiving certain income tax incentives on their state return for tax year 2014 even if the corresponding federal incentives are not renewed in time. Therefore, this act shall go into immediate effect. 1264
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