

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 200**

**Representatives Callender, Young, T.**

**Cosponsors: Representatives Hillyer, Roemer**

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**A BILL**

To amend sections 5747.01, 5747.05, 5747.11, and 1  
5747.13 of the Revised Code to modify the income 2  
tax treatment of income subject to other states' 3  
pass-through entity taxes. 4

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

**Section 1.** That sections 5747.01, 5747.05, 5747.11, and 5  
5747.13 of the Revised Code be amended to read as follows: 6

**Sec. 5747.01.** Except as otherwise expressly provided or 7  
clearly appearing from the context, any term used in this 8  
chapter that is not otherwise defined in this section has the 9  
same meaning as when used in a comparable context in the laws of 10  
the United States relating to federal income taxes or if not 11  
used in a comparable context in those laws, has the same meaning 12  
as in section 5733.40 of the Revised Code. Any reference in this 13  
chapter to the Internal Revenue Code includes other laws of the 14  
United States relating to federal income taxes. 15

As used in this chapter: 16

(A) "Adjusted gross income" or "Ohio adjusted gross 17  
income" means federal adjusted gross income, as defined and used 18

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 the following, to the extent not otherwise 38  
deducted or excluded in computing federal or Ohio adjusted gross 39  
income: 40

(a) Benefits under Title II of the Social Security Act and 41  
tier 1 railroad retirement; 42

(b) Railroad retirement benefits, other than tier 1 43  
railroad retirement benefits, to the extent such amounts are 44  
exempt from state taxation under federal law. 45

(6) Deduct the amount of wages and salaries, if any, not 46

otherwise allowable as a deduction but that would have been 47  
allowable as a deduction in computing federal adjusted gross 48  
income for the taxable year, had the work opportunity tax credit 49  
allowed and determined under sections 38, 51, and 52 of the 50  
Internal Revenue Code not been in effect. 51

(7) Deduct any interest or interest equivalent on public 52  
obligations and purchase obligations to the extent that the 53  
interest or interest equivalent is included in federal adjusted 54  
gross income. 55

(8) Add any loss or deduct any gain resulting from the 56  
sale, exchange, or other disposition of public obligations to 57  
the extent that the loss has been deducted or the gain has been 58  
included in computing federal adjusted gross income. 59

(9) Deduct or add amounts, as provided under section 60  
5747.70 of the Revised Code, related to contributions made to or 61  
tuition units purchased under a qualified tuition program 62  
established pursuant to section 529 of the Internal Revenue 63  
Code. 64

(10) (a) Deduct, to the extent not otherwise allowable as a 65  
deduction or exclusion in computing federal or Ohio adjusted 66  
gross income for the taxable year, the amount the taxpayer paid 67  
during the taxable year for medical care insurance and qualified 68  
long-term care insurance for the taxpayer, the taxpayer's 69  
spouse, and dependents. No deduction for medical care insurance 70  
under division (A) (10) (a) of this section shall be allowed 71  
either to any taxpayer who is eligible to participate in any 72  
subsidized health plan maintained by any employer of the 73  
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 74  
entitled to, or on application would be entitled to, benefits 75  
under part A of Title XVIII of the "Social Security Act," 49 76

Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 77  
division (A) (10) (a) of this section, "subsidized health plan" 78  
means a health plan for which the employer pays any portion of 79  
the plan's cost. The deduction allowed under division (A) (10) (a) 80  
of this section shall be the net of any related premium refunds, 81  
related premium reimbursements, or related insurance premium 82  
dividends received during the taxable year. 83

(b) Deduct, to the extent not otherwise deducted or 84  
excluded in computing federal or Ohio adjusted gross income 85  
during the taxable year, the amount the taxpayer paid during the 86  
taxable year, not compensated for by any insurance or otherwise, 87  
for medical care of the taxpayer, the taxpayer's spouse, and 88  
dependents, to the extent the expenses exceed seven and one-half 89  
per cent of the taxpayer's federal adjusted gross income. 90

(c) For purposes of division (A) (10) of this section, 91  
"medical care" has the meaning given in section 213 of the 92  
Internal Revenue Code, subject to the special rules, 93  
limitations, and exclusions set forth therein, and "qualified 94  
long-term care" has the same meaning given in section 7702B(c) 95  
of the Internal Revenue Code. Solely for purposes of division 96  
(A) (10) (a) of this section, "dependent" includes a person who 97  
otherwise would be a "qualifying relative" and thus a 98  
"dependent" under section 152 of the Internal Revenue Code but 99  
for the fact that the person fails to meet the income and 100  
support limitations under section 152(d) (1) (B) and (C) of the 101  
Internal Revenue Code. 102

(11) (a) Deduct any amount included in federal adjusted 103  
gross income solely because the amount represents a 104  
reimbursement or refund of expenses that in any year the 105  
taxpayer had deducted as an itemized deduction pursuant to 106

section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) (11) (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.

(12) 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.

(13) 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) (13) 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.

(14) (a) Add an amount equal to the funds withdrawn from a

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| medical savings account during the taxable year, and the net     | 136 |
| investment earnings on those funds, when the funds withdrawn     | 137 |
| were used for any purpose other than to reimburse an account     | 138 |
| holder for, or to pay, eligible medical expenses, in accordance  | 139 |
| with section 3924.66 of the Revised Code;                        | 140 |
| (b) Add the amounts distributed from a medical savings           | 141 |
| account under division (A) (2) of section 3924.68 of the Revised | 142 |
| Code during the taxable year.                                    | 143 |
| (15) Add any amount claimed as a credit under section            | 144 |
| 5747.059 of the Revised Code to the extent that such amount      | 145 |
| satisfies either of the following:                               | 146 |
| (a) The amount was deducted or excluded from the                 | 147 |
| computation of the taxpayer's federal adjusted gross income as   | 148 |
| required to be reported for the taxpayer's taxable year under    | 149 |
| the Internal Revenue Code;                                       | 150 |
| (b) The amount resulted in a reduction of the taxpayer's         | 151 |
| federal adjusted gross income as required to be reported for any | 152 |
| of the taxpayer's taxable years under the Internal Revenue Code. | 153 |
| (16) Deduct the amount contributed by the taxpayer to an         | 154 |
| individual development account program established by a county   | 155 |
| department of job and family services pursuant to sections       | 156 |
| 329.11 to 329.14 of the Revised Code for the purpose of matching | 157 |
| funds deposited by program participants. On request of the tax   | 158 |
| commissioner, the taxpayer shall provide any information that,   | 159 |
| in the tax commissioner's opinion, is necessary to establish the | 160 |
| amount deducted under division (A) (16) of this section.         | 161 |
| (17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and  | 162 |
| (v) of this section, add five-sixths of the amount of            | 163 |
| depreciation expense allowed by subsection (k) of section 168 of | 164 |

the Internal Revenue Code, including the taxpayer's 165  
proportionate or distributive share of the amount of 166  
depreciation expense allowed by that subsection to a pass- 167  
through entity in which the taxpayer has a direct or indirect 168  
ownership interest. 169

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 170  
of this section, add five-sixths of the amount of qualifying 171  
section 179 depreciation expense, including the taxpayer's 172  
proportionate or distributive share of the amount of qualifying 173  
section 179 depreciation expense allowed to any pass-through 174  
entity in which the taxpayer has a direct or indirect ownership 175  
interest. 176

(iii) Subject to division (A) (17) (a) (v) of this section, 177  
for taxable years beginning in 2012 or thereafter, if the 178  
increase in income taxes withheld by the taxpayer is equal to or 179  
greater than ten per cent of income taxes withheld by the 180  
taxpayer during the taxpayer's immediately preceding taxable 181  
year, "two-thirds" shall be substituted for "five-sixths" for 182  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 183

(iv) Subject to division (A) (17) (a) (v) of this section, 184  
for taxable years beginning in 2012 or thereafter, a taxpayer is 185  
not required to add an amount under division (A) (17) of this 186  
section if the increase in income taxes withheld by the taxpayer 187  
and by any pass-through entity in which the taxpayer has a 188  
direct or indirect ownership interest is equal to or greater 189  
than the sum of (I) the amount of qualifying section 179 190  
depreciation expense and (II) the amount of depreciation expense 191  
allowed to the taxpayer by subsection (k) of section 168 of the 192  
Internal Revenue Code, and including the taxpayer's 193  
proportionate or distributive shares of such amounts allowed to 194

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| any such pass-through entities.                                     | 195 |
| (v) If a taxpayer directly or indirectly incurs a net               | 196 |
| operating loss for the taxable year for federal income tax          | 197 |
| purposes, to the extent such loss resulted from depreciation        | 198 |
| expense allowed by subsection (k) of section 168 of the Internal    | 199 |
| Revenue Code and by qualifying section 179 depreciation expense,    | 200 |
| "the entire" shall be substituted for "five-sixths of the" for      | 201 |
| the purpose of divisions (A) (17) (a) (i) and (ii) of this section. | 202 |
| The tax commissioner, under procedures established by the           | 203 |
| commissioner, may waive the add-backs related to a pass-through     | 204 |
| entity if the taxpayer owns, directly or indirectly, less than      | 205 |
| five per cent of the pass-through entity.                           | 206 |
| (b) Nothing in division (A) (17) of this section shall be           | 207 |
| construed to adjust or modify the adjusted basis of any asset.      | 208 |
| (c) To the extent the add-back required under division (A)          | 209 |
| (17) (a) of this section is attributable to property generating     | 210 |
| nonbusiness income or loss allocated under section 5747.20 of       | 211 |
| the Revised Code, the add-back shall be situated to the same        | 212 |
| location as the nonbusiness income or loss generated by the         | 213 |
| property for the purpose of determining the credit under            | 214 |
| division (A) of section 5747.05 of the Revised Code. Otherwise,     | 215 |
| the add-back shall be apportioned, subject to one or more of the    | 216 |
| four alternative methods of apportionment enumerated in section     | 217 |
| 5747.21 of the Revised Code.  | 218 |
| (d) For the purposes of division (A) (17) (a) (v) of this           | 219 |
| section, net operating loss carryback and carryforward shall not    | 220 |
| include the allowance of any net operating loss deduction           | 221 |
| carryback or carryforward to the taxable year to the extent such    | 222 |
| loss resulted from depreciation allowed by section 168(k) of the    | 223 |



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| Internal Revenue Code and by the qualifying section 179          | 224 |
| depreciation expense amount.                                     | 225 |
| (e) For the purposes of divisions (A) (17) and (18) of this      | 226 |
| section:   | 227 |
| (i) "Income taxes withheld" means the total amount               | 228 |
| withheld and remitted under sections 5747.06 and 5747.07 of the  | 229 |
| Revised Code by an employer during the employer's taxable year.  | 230 |
| (ii) "Increase in income taxes withheld" means the amount        | 231 |
| by which the amount of income taxes withheld by an employer      | 232 |
| during the employer's current taxable year exceeds the amount of | 233 |
| income taxes withheld by that employer during the employer's     | 234 |
| immediately preceding taxable year.                              | 235 |
| (iii) "Qualifying section 179 depreciation expense" means        | 236 |
| the difference between (I) the amount of depreciation expense    | 237 |
| directly or indirectly allowed to a taxpayer under section 179   | 238 |
| of the Internal Revised Code, and (II) the amount of             | 239 |
| depreciation expense directly or indirectly allowed to the       | 240 |
| taxpayer under section 179 of the Internal Revenue Code as that  | 241 |
| section existed on December 31, 2002.                            | 242 |
| (18) (a) If the taxpayer was required to add an amount           | 243 |
| under division (A) (17) (a) of this section for a taxable year,  | 244 |
| deduct one of the following:                                     | 245 |
| (i) One-fifth of the amount so added for each of the five        | 246 |
| succeeding taxable years if the amount so added was five-sixths  | 247 |
| of qualifying section 179 depreciation expense or depreciation   | 248 |
| expense allowed by subsection (k) of section 168 of the Internal | 249 |
| Revenue Code;  | 250 |
| (ii) One-half of the amount so added for each of the two         | 251 |
| succeeding taxable years if the amount so added was two-thirds   | 252 |

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| of such depreciation expense;   | 253   |
| (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.   | 254<br>255<br>256   |
| (b) If the amount deducted under division (A) (18) (a) of this section is attributable to an add-back allocated under division (A) (17) (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.  | 257<br>258<br>259<br>260<br>261<br>262<br>263<br>264                                    |
| (c) No deduction is available under division (A) (18) (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 (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (17) (a) of this section has been deducted. | 265<br>266<br>267<br>268<br>269<br>270<br>271<br>272<br>273<br>274<br>275<br>276<br>277 |
| (19) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.   | 278<br>279<br>280<br>281<br>282   |

(20) Deduct, to the extent not otherwise deducted or 283  
excluded in computing federal or Ohio adjusted gross income for 284  
the taxable year, the amount the taxpayer received during the 285  
taxable year as a death benefit paid by the adjutant general 286  
under section 5919.33 of the Revised Code. 287

(21) Deduct, to the extent included in federal adjusted 288  
gross income and not otherwise allowable as a deduction or 289  
exclusion in computing federal or Ohio adjusted gross income for 290  
the taxable year, military pay and allowances received by the 291  
taxpayer during the taxable year for active duty service in the 292  
United States army, air force, navy, marine corps, or coast 293  
guard or reserve components thereof or the national guard. The 294  
deduction may not be claimed for military pay and allowances 295  
received by the taxpayer while the taxpayer is stationed in this 296  
state. 297

(22) Deduct, to the extent not otherwise allowable as a 298  
deduction or exclusion in computing federal or Ohio adjusted 299  
gross income for the taxable year and not otherwise compensated 300  
for by any other source, the amount of qualified organ donation 301  
expenses incurred by the taxpayer during the taxable year, not 302  
to exceed ten thousand dollars. A taxpayer may deduct qualified 303  
organ donation expenses only once for all taxable years 304  
beginning with taxable years beginning in 2007. 305

For the purposes of division (A) (22) of this section: 306

(a) "Human organ" means all or any portion of a human 307  
liver, pancreas, kidney, intestine, or lung, and any portion of 308  
human bone marrow. 309

(b) "Qualified organ donation expenses" means travel 310  
expenses, lodging expenses, and wages and salary forgone by a 311

taxpayer in connection with the taxpayer's donation, while 312  
living, of one or more of the taxpayer's human organs to another 313  
human being. 314

(23) Deduct, to the extent not otherwise deducted or 315  
excluded in computing federal or Ohio adjusted gross income for 316  
the taxable year, amounts received by the taxpayer as retired 317  
personnel pay for service in the uniformed services or reserve 318  
components thereof, or the national guard, or received by the 319  
surviving spouse or former spouse of such a taxpayer under the 320  
survivor benefit plan on account of such a taxpayer's death. If 321  
the taxpayer receives income on account of retirement paid under 322  
the federal civil service retirement system or federal employees 323  
retirement system, or under any successor retirement program 324  
enacted by the congress of the United States that is established 325  
and maintained for retired employees of the United States 326  
government, and such retirement income is based, in whole or in 327  
part, on credit for the taxpayer's uniformed service, the 328  
deduction allowed under this division shall include only that 329  
portion of such retirement income that is attributable to the 330  
taxpayer's uniformed service, to the extent that portion of such 331  
retirement income is otherwise included in federal adjusted 332  
gross income and is not otherwise deducted under this section. 333  
Any amount deducted under division (A) (23) of this section is 334  
not included in a taxpayer's adjusted gross income for the 335  
purposes of section 5747.055 of the Revised Code. No amount may 336  
be deducted under division (A) (23) of this section on the basis 337  
of which a credit was claimed under section 5747.055 of the 338  
Revised Code. 339

(24) Deduct, to the extent not otherwise deducted or 340  
excluded in computing federal or Ohio adjusted gross income for 341  
the taxable year, the amount the taxpayer received during the 342

taxable year from the military injury relief fund created in 343  
section 5902.05 of the Revised Code. 344

(25) Deduct, to the extent not otherwise deducted or 345  
excluded in computing federal or Ohio adjusted gross income for 346  
the taxable year, the amount the taxpayer received as a veterans 347  
bonus during the taxable year from the Ohio department of 348  
veterans services as authorized by Section 2r of Article VIII, 349  
Ohio Constitution. 350

(26) Deduct, to the extent not otherwise deducted or 351  
excluded in computing federal or Ohio adjusted gross income for 352  
the taxable year, any income derived from a transfer agreement 353  
or from the enterprise transferred under that agreement under 354  
section 4313.02 of the Revised Code. 355

(27) Deduct, to the extent not otherwise deducted or 356  
excluded in computing federal or Ohio adjusted gross income for 357  
the taxable year, Ohio college opportunity or federal Pell grant 358  
amounts received by the taxpayer or the taxpayer's spouse or 359  
dependent pursuant to section 3333.122 of the Revised Code or 20 360  
U.S.C. 1070a, et seq., and used to pay room or board furnished 361  
by the educational institution for which the grant was awarded 362  
at the institution's facilities, including meal plans 363  
administered by the institution. For the purposes of this 364  
division, receipt of a grant includes the distribution of a 365  
grant directly to an educational institution and the crediting 366  
of the grant to the enrollee's account with the institution. 367

(28) Deduct from the portion of an individual's federal 368  
adjusted gross income that is business income, to the extent not 369  
otherwise deducted or excluded in computing federal adjusted 370  
gross income for the taxable year, one hundred twenty-five 371  
thousand dollars for each spouse if spouses file separate 372

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| returns under section 5747.08 of the Revised Code or two hundred   | 373 |
| fifty thousand dollars for all other individuals.                  | 374 |
| (29) Deduct, as provided under section 5747.78 of the              | 375 |
| Revised Code, contributions to ABLE savings accounts made in       | 376 |
| accordance with sections 113.50 to 113.56 of the Revised Code.     | 377 |
| (30) (a) Deduct, to the extent not otherwise deducted or           | 378 |
| excluded in computing federal or Ohio adjusted gross income        | 379 |
| during the taxable year, all of the following:                     | 380 |
| (i) Compensation paid to a qualifying employee described           | 381 |
| in division (A) (14) (a) of section 5703.94 of the Revised Code to | 382 |
| the extent such compensation is for disaster work conducted in     | 383 |
| this state during a disaster response period pursuant to a         | 384 |
| qualifying solicitation received by the employee's employer;       | 385 |
| (ii) Compensation paid to a qualifying employee described          | 386 |
| in division (A) (14) (b) of section 5703.94 of the Revised Code to | 387 |
| the extent such compensation is for disaster work conducted in     | 388 |
| this state by the employee during the disaster response period     | 389 |
| on critical infrastructure owned or used by the employee's         | 390 |
| employer;  | 391 |
| (iii) Income received by an out-of-state disaster business         | 392 |
| for disaster work conducted in this state during a disaster        | 393 |
| response period, or, if the out-of-state disaster business is a    | 394 |
| pass-through entity, a taxpayer's distributive share of the        | 395 |
| pass-through entity's income from the business conducting          | 396 |
| disaster work in this state during a disaster response period,     | 397 |
| if, in either case, the disaster work is conducted pursuant to a   | 398 |
| qualifying solicitation received by the business.                  | 399 |
| (b) All terms used in division (A) (30) of this section            | 400 |
| have the same meanings as in section 5703.94 of the Revised        | 401 |

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| Code.   | 402 |
| (31) For a taxpayer who is a qualifying Ohio educator,            | 403 |
| deduct, to the extent not otherwise deducted or excluded in       | 404 |
| computing federal or Ohio adjusted gross income for the taxable   | 405 |
| year, the lesser of two hundred fifty dollars or the amount of    | 406 |
| expenses described in subsections (a) (2) (D) (i) and (ii) of     | 407 |
| section 62 of the Internal Revenue Code paid or incurred by the   | 408 |
| taxpayer during the taxpayer's taxable year in excess of the      | 409 |
| amount the taxpayer is authorized to deduct for that taxable      | 410 |
| year under subsection (a) (2) (D) of that section.                | 411 |
| (32) Deduct, to the extent not otherwise deducted or              | 412 |
| excluded in computing federal or Ohio adjusted gross income for   | 413 |
| the taxable year, amounts received by the taxpayer as a           | 414 |
| disability severance payment, computed under 10 U.S.C. 1212,      | 415 |
| following discharge or release under honorable conditions from    | 416 |
| the armed forces, as defined by 10 U.S.C. 101.                    | 417 |
| (33) Deduct, to the extent not otherwise deducted or              | 418 |
| excluded in computing federal adjusted gross income or Ohio       | 419 |
| adjusted gross income, amounts not subject to tax due to an       | 420 |
| agreement entered into under division (A) (2) of section 5747.05  | 421 |
| of the Revised Code.  | 422 |
| (34) Deduct amounts as provided under section 5747.79 of          | 423 |
| the Revised Code related to the taxpayer's qualifying capital     | 424 |
| gains and deductible payroll.                                     | 425 |
| To the extent a qualifying capital gain described under           | 426 |
| division (A) (34) of this section is business income, the         | 427 |
| taxpayer shall deduct those gains under this division before      | 428 |
| deducting any such gains under division (A) (28) of this section. | 429 |
| (35) (a) For taxable years beginning in or after 2026,            | 430 |

deduct, to the extent not otherwise deducted or excluded in 431  
computing federal or Ohio adjusted gross income for the taxable 432  
year: 433

(i) One hundred per cent of the capital gain received by 434  
the taxpayer in the taxable year from a qualifying interest in 435  
an Ohio venture capital operating company attributable to the 436  
company's investments in Ohio businesses during the period for 437  
which the company was an Ohio venture operating company; and 438

(ii) Fifty per cent of the capital gain received by the 439  
taxpayer in the taxable year from a qualifying interest in an 440  
Ohio venture capital operating company attributable to the 441  
company's investments in all other businesses during the period 442  
for which the company was an Ohio venture operating company. 443

(b) Add amounts previously deducted by the taxpayer under 444  
division (A) (35) (a) of this section if the director of 445  
development certifies to the tax commissioner that the 446  
requirements for the deduction were not met. 447

(c) All terms used in division (A) (35) of this section 448  
have the same meanings as in section 122.851 of the Revised 449  
Code. 450

(d) To the extent a capital gain described in division (A) 451  
(35) (a) of this section is business income, the taxpayer shall 452  
apply that division before applying division (A) (28) of this 453  
section. 454

(36) Add, to the extent not otherwise included in 455  
computing federal or Ohio adjusted gross income for any taxable 456  
year, the taxpayer's proportionate share of the amount of the 457  
tax levied under section 5747.38 of the Revised Code and paid by 458  
an electing pass-through entity for the taxable year. 459



Notwithstanding any provision of the Revised Code to the 460  
contrary, the portion of the addition required by division (A) 461  
(36) of this section related to the apportioned business income 462  
of the pass-through entity shall be considered business income 463  
under division (B) of this section. Such addition is eligible 464  
for the deduction in division (A) (28) of this section, subject 465  
to the applicable dollar limitations, and the tax rate 466  
prescribed by division (A) (4) (a) of section 5747.02 of the 467  
Revised Code. The taxpayer shall provide, upon request of the 468  
tax commissioner, any documentation necessary to verify the 469  
portion of the addition that is business income under this 470  
division. 471

(37) Deduct, to the extent not otherwise deducted or 472  
excluded in computing federal or Ohio adjusted gross income for 473  
the taxable year, amounts delivered to a qualifying institution 474  
pursuant to section 3333.128 of the Revised Code for the benefit 475  
of the taxpayer or the taxpayer's spouse or dependent. 476

(38) Deduct, to the extent not otherwise deducted or 477  
excluded in computing federal or Ohio adjusted gross income for 478  
the taxable year, amounts received under the Ohio adoption grant 479  
program pursuant to section 5101.191 of the Revised Code. 480

(39) Deduct, to the extent included in federal adjusted 481  
gross income, income attributable to loan repayments on behalf 482  
of the taxpayer under the rural practice incentive program under 483  
section 3333.135 of the Revised Code. 484

(40) Add any income taxes deducted in computing federal or 485  
Ohio adjusted gross income to the extent the income taxes were 486  
derived from income subject to a tax levied in another state or 487  
the District of Columbia when such tax was enacted for purposes 488  
of complying with internal revenue service notice 2020-75. 489

Notwithstanding any provision of the Revised Code to the 490  
contrary, the portion of the addition required by division (A) 491  
(40) of this section related to the apportioned business income 492  
of the pass-through entity shall be considered business income 493  
under division (B) of this section. Such addition is eligible 494  
for the deduction in division (A) (28) of this section, subject 495  
to the applicable dollar limitations, and the tax rate 496  
prescribed by division (A) (4) (a) of section 5747.02 of the 497  
Revised Code. The taxpayer shall provide, upon request of the 498  
tax commissioner, any documentation necessary to verify the 499  
portion of the addition that is business income under this 500  
division. 501

(B) "Business income" means income, including gain or 502  
loss, arising from transactions, activities, and sources in the 503  
regular course of a trade or business and includes income, gain, 504  
or loss from real property, tangible property, and intangible 505  
property if the acquisition, rental, management, and disposition 506  
of the property constitute integral parts of the regular course 507  
of a trade or business operation. "Business income" includes 508  
income, including gain or loss, from a partial or complete 509  
liquidation of a business, including, but not limited to, gain 510  
or loss from the sale or other disposition of goodwill or the 511  
sale of an equity or ownership interest in a business. 512

As used in this division, the "sale of an equity or 513  
ownership interest in a business" means sales to which either or 514  
both of the following apply: 515

(1) The sale is treated for federal income tax purposes as 516  
the sale of assets. 517

(2) The seller materially participated, as described in 26 518  
C.F.R. 1.469-5T, in the activities of the business during the 519

taxable year in which the sale occurs or during any of the five 520  
preceding taxable years. 521

(C) "Nonbusiness income" means all income other than 522  
business income and may include, but is not limited to, 523  
compensation, rents and royalties from real or tangible personal 524  
property, capital gains, interest, dividends and distributions, 525  
patent or copyright royalties, or lottery winnings, prizes, and 526  
awards. 527

(D) "Compensation" means any form of remuneration paid to 528  
an employee for personal services. 529

(E) "Fiduciary" means a guardian, trustee, executor, 530  
administrator, receiver, conservator, or any other person acting 531  
in any fiduciary capacity for any individual, trust, or estate. 532

(F) "Fiscal year" means an accounting period of twelve 533  
months ending on the last day of any month other than December. 534

(G) "Individual" means any natural person. 535

(H) "Internal Revenue Code" means the "Internal Revenue 536  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 537

(I) "Resident" means any of the following: 538

(1) An individual who is domiciled in this state, subject 539  
to section 5747.24 of the Revised Code; 540

(2) The estate of a decedent who at the time of death was 541  
domiciled in this state. The domicile tests of section 5747.24 542  
of the Revised Code are not controlling for purposes of division 543  
(I)(2) of this section. 544

(3) A trust that, in whole or part, resides in this state. 545  
If only part of a trust resides in this state, the trust is a 546

resident only with respect to that part. 547

For the purposes of division (I) (3) of this section: 548

(a) A trust resides in this state for the trust's current 549  
taxable year to the extent, as described in division (I) (3) (d) 550  
of this section, that the trust consists directly or indirectly, 551  
in whole or in part, of assets, net of any related liabilities, 552  
that were transferred, or caused to be transferred, directly or 553  
indirectly, to the trust by any of the following: 554

(i) A person, a court, or a governmental entity or 555  
instrumentality on account of the death of a decedent, but only 556  
if the trust is described in division (I) (3) (e) (i) or (ii) of 557  
this section; 558

(ii) A person who was domiciled in this state for the 559  
purposes of this chapter when the person directly or indirectly 560  
transferred assets to an irrevocable trust, but only if at least 561  
one of the trust's qualifying beneficiaries is domiciled in this 562  
state for the purposes of this chapter during all or some 563  
portion of the trust's current taxable year; 564

(iii) A person who was domiciled in this state for the 565  
purposes of this chapter when the trust document or instrument 566  
or part of the trust document or instrument became irrevocable, 567  
but only if at least one of the trust's qualifying beneficiaries 568  
is a resident domiciled in this state for the purposes of this 569  
chapter during all or some portion of the trust's current 570  
taxable year. If a trust document or instrument became 571  
irrevocable upon the death of a person who at the time of death 572  
was domiciled in this state for purposes of this chapter, that 573  
person is a person described in division (I) (3) (a) (iii) of this 574  
section. 575

(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 606  
revised qualifying ratio is the sum of (1) the fair market value 607  
of the trust's assets immediately prior to the subsequent 608  
transfer, net of any related liabilities, multiplied by the 609  
qualifying ratio last computed without regard to the subsequent 610  
transfer, and (2) the fair market value of the subsequently 611  
transferred assets at the time transferred, net of any related 612  
liabilities, from sources enumerated in division (I) (3) (a) of 613  
this section. The denominator of the revised qualifying ratio is 614  
the fair market value of all the trust's assets immediately 615  
after the subsequent transfer, net of any related liabilities. 616

(iii) Whether a transfer to the trust is by or from any of 617  
the sources enumerated in division (I) (3) (a) of this section 618  
shall be ascertained without regard to the domicile of the 619  
trust's beneficiaries. 620

(e) For the purposes of division (I) (3) (a) (i) of this 621  
section: 622

(i) A trust is described in division (I) (3) (e) (i) of this 623  
section if the trust is a testamentary trust and the testator of 624  
that testamentary trust was domiciled in this state at the time 625  
of the testator's death for purposes of the taxes levied under 626  
Chapter 5731. of the Revised Code. 627

(ii) A trust is described in division (I) (3) (e) (ii) of 628  
this section if the transfer is a qualifying transfer described 629  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 630  
trust is an irrevocable inter vivos trust, and at least one of 631  
the trust's qualifying beneficiaries is domiciled in this state 632  
for purposes of this chapter during all or some portion of the 633  
trust's current taxable year. 634

(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 664  
of a testator who was domiciled in this state at the time of the 665  
testator's death for purposes of the taxes levied under Chapter 666  
5731. of the Revised Code. 667

(vi) The transfer is made to a trust created by or caused 668  
to be created by a court, and the trust was directly or 669  
indirectly created in connection with or as a result of the 670  
death of an individual who, for purposes of the taxes levied 671  
under Chapter 5731. of the Revised Code, was domiciled in this 672  
state at the time of the individual's death. 673

(g) The tax commissioner may adopt rules to ascertain the 674  
part of a trust residing in this state. 675

(J) "Nonresident" means an individual or estate that is 676  
not a resident. An individual who is a resident for only part of 677  
a taxable year is a nonresident for the remainder of that 678  
taxable year. 679

(K) "Pass-through entity" has the same meaning as in 680  
section 5733.04 of the Revised Code. 681

(L) "Return" means the notifications and reports required 682  
to be filed pursuant to this chapter for the purpose of 683  
reporting the tax due and includes declarations of estimated tax 684  
when so required. 685

(M) "Taxable year" means the calendar year or the 686  
taxpayer's fiscal year ending during the calendar year, or 687  
fractional part thereof, upon which the adjusted gross income is 688  
calculated pursuant to this chapter. 689

(N) "Taxpayer" means any person subject to the tax imposed 690  
by section 5747.02 of the Revised Code or any pass-through 691  
entity that makes the election under division (D) of section 692



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| 5747.08 of the Revised Code.  | 693                             |
| (O) "Dependents" means one of the following:  | 694                             |
| (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, dependents as defined in the Internal Revenue Code;  | 695<br>696<br>697               |
| (2) For all other taxable years, 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.              | 698<br>699<br>700<br>701<br>702 |
| (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. | 703<br>704<br>705<br>706<br>707 |
| (Q) As used in sections 5747.50 to 5747.55 of the Revised Code:   | 708<br>709                      |
| (1) "Subdivision" means any county, municipal corporation, park district, or township.  | 710<br>711                      |
| (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.  | 712<br>713<br>714<br>715        |
| (R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.   | 716<br>717<br>718               |
| (S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as  | 719<br>720                      |

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| defined and used in the Internal Revenue Code, adjusted as        | 721 |
| follows:  | 722 |
| (1) Add interest or dividends, net of ordinary, necessary,        | 723 |
| and reasonable expenses not deducted in computing federal         | 724 |
| taxable income, on obligations or securities of any state or of   | 725 |
| any political subdivision or authority of any state, other than   | 726 |
| this state and its subdivisions and authorities, but only to the  | 727 |
| extent that such net amount is not otherwise includible in Ohio   | 728 |
| taxable income and is described in either division (S) (1) (a) or | 729 |
| (b) of this section:  | 730 |
| (a) The net amount is not attributable to the S portion of        | 731 |
| an electing small business trust and has not been distributed to  | 732 |
| beneficiaries for the taxable year;                               | 733 |
| (b) The net amount is attributable to the S portion of an         | 734 |
| electing small business trust for the taxable year.               | 735 |
| (2) Add interest or dividends, net of ordinary, necessary,        | 736 |
| and reasonable expenses not deducted in computing federal         | 737 |
| taxable income, on obligations of any authority, commission,      | 738 |
| instrumentality, territory, or possession of the United States    | 739 |
| to the extent that the interest or dividends are exempt from      | 740 |
| federal income taxes but not from state income taxes, but only    | 741 |
| to the extent that such net amount is not otherwise includible    | 742 |
| in Ohio taxable income and is described in either division (S)    | 743 |
| (1) (a) or (b) of this section;                                   | 744 |
| (3) Add the amount of personal exemption allowed to the           | 745 |
| estate pursuant to section 642(b) of the Internal Revenue Code;   | 746 |
| (4) Deduct interest or dividends, net of related expenses         | 747 |
| deducted in computing federal taxable income, on obligations of   | 748 |
| the United States and its territories and possessions or of any   | 749 |

authority, commission, or instrumentality of the United States 750  
to the extent that the interest or dividends are exempt from 751  
state taxes under the laws of the United States, but only to the 752  
extent that such amount is included in federal taxable income 753  
and is described in either division (S) (1) (a) or (b) of this 754  
section; 755

(5) Deduct the amount of wages and salaries, if any, not 756  
otherwise allowable as a deduction but that would have been 757  
allowable as a deduction in computing federal taxable income for 758  
the taxable year, had the work opportunity tax credit allowed 759  
under sections 38, 51, and 52 of the Internal Revenue Code not 760  
been in effect, but only to the extent such amount relates 761  
either to income included in federal taxable income for the 762  
taxable year or to income of the S portion of an electing small 763  
business trust for the taxable year; 764

(6) Deduct any interest or interest equivalent, net of 765  
related expenses deducted in computing federal taxable income, 766  
on public obligations and purchase obligations, but only to the 767  
extent that such net amount relates either to income included in 768  
federal taxable income for the taxable year or to income of the 769  
S portion of an electing small business trust for the taxable 770  
year; 771

(7) Add any loss or deduct any gain resulting from sale, 772  
exchange, or other disposition of public obligations to the 773  
extent that such loss has been deducted or such gain has been 774  
included in computing either federal taxable income or income of 775  
the S portion of an electing small business trust for the 776  
taxable year; 777

(8) Except in the case of the final return of an estate, 778  
add any amount deducted by the taxpayer on both its Ohio estate 779

tax return pursuant to section 5731.14 of the Revised Code, and 780  
on its federal income tax return in determining federal taxable 781  
income; 782

(9) (a) Deduct any amount included in federal taxable 783  
income solely because the amount represents a reimbursement or 784  
refund of expenses that in a previous year the decedent had 785  
deducted as an itemized deduction pursuant to section 63 of the 786  
Internal Revenue Code and applicable treasury regulations. The 787  
deduction otherwise allowed under division (S) (9) (a) of this 788  
section shall be reduced to the extent the reimbursement is 789  
attributable to an amount the taxpayer or decedent deducted 790  
under this section in any taxable year. 791

(b) Add any amount not otherwise included in Ohio taxable 792  
income for any taxable year to the extent that the amount is 793  
attributable to the recovery during the taxable year of any 794  
amount deducted or excluded in computing federal or Ohio taxable 795  
income in any taxable year, but only to the extent such amount 796  
has not been distributed to beneficiaries for the taxable year. 797

(10) Deduct any portion of the deduction described in 798  
section 1341(a) (2) of the Internal Revenue Code, for repaying 799  
previously reported income received under a claim of right, that 800  
meets both of the following requirements: 801

(a) It is allowable for repayment of an item that was 802  
included in the taxpayer's taxable income or the decedent's 803  
adjusted gross income for a prior taxable year and did not 804  
qualify for a credit under division (A) or (B) of section 805  
5747.05 of the Revised Code for that year. 806

(b) It does not otherwise reduce the taxpayer's taxable 807  
income or the decedent's adjusted gross income for the current 808

|  |     |
|--|-----|
| or any other taxable year.                                       | 809 |
| (11) Add any amount claimed as a credit under section            | 810 |
| 5747.059 of the Revised Code to the extent that the amount       | 811 |
| satisfies either of the following:                               | 812 |
| (a) The amount was deducted or excluded from the                 | 813 |
| computation of the taxpayer's federal taxable income as required | 814 |
| to be reported for the taxpayer's taxable year under the         | 815 |
| Internal Revenue Code;   | 816 |
| (b) The amount resulted in a reduction in the taxpayer's         | 817 |
| federal taxable income as required to be reported for any of the | 818 |
| taxpayer's taxable years under the Internal Revenue Code.        | 819 |
| (12) Deduct any amount, net of related expenses deducted         | 820 |
| in computing federal taxable income, that a trust is required to | 821 |
| report as farm income on its federal income tax return, but only | 822 |
| if the assets of the trust include at least ten acres of land    | 823 |
| satisfying the definition of "land devoted exclusively to        | 824 |
| agricultural use" under section 5713.30 of the Revised Code,     | 825 |
| regardless of whether the land is valued for tax purposes as     | 826 |
| such land under sections 5713.30 to 5713.38 of the Revised Code. | 827 |
| If the trust is a pass-through entity investor, section 5747.231 | 828 |
| of the Revised Code applies in ascertaining if the trust is      | 829 |
| eligible to claim the deduction provided by division (S) (12) of | 830 |
| this section in connection with the pass-through entity's farm   | 831 |
| income.  | 832 |
| Except for farm income attributable to the S portion of an       | 833 |
| electing small business trust, the deduction provided by         | 834 |
| division (S) (12) of this section is allowed only to the extent  | 835 |
| that the trust has not distributed such farm income.             | 836 |
| (13) Add the net amount of income described in section           | 837 |

641(c) of the Internal Revenue Code to the extent that amount is 838  
not included in federal taxable income. 839

(14) Add or deduct the amount the taxpayer would be 840  
required to add or deduct under division (A)(17) or (18) of this 841  
section if the taxpayer's Ohio taxable income were computed in 842  
the same manner as an individual's Ohio adjusted gross income is 843  
computed under this section. 844

(15) Add, to the extent not otherwise included in 845  
computing taxable income or Ohio taxable income for any taxable 846  
year, the taxpayer's proportionate share of the amount of the 847  
tax levied under section 5747.38 of the Revised Code and paid by 848  
an electing pass-through entity for the taxable year. 849

(16) Add any income taxes deducted in computing federal 850  
taxable income or Ohio taxable income to the extent the income 851  
taxes were derived from income subject to tax levied in another 852  
state or the District of Columbia when such tax was enacted for 853  
purposes of complying with internal revenue service notice 2020- 854  
75. 855

(T) "School district income" and "school district income 856  
tax" have the same meanings as in section 5748.01 of the Revised 857  
Code. 858

(U) As used in divisions (A)(7), (A)(8), (S)(6), and (S) 859  
(7) of this section, "public obligations," "purchase 860  
obligations," and "interest or interest equivalent" have the 861  
same meanings as in section 5709.76 of the Revised Code. 862

(V) "Limited liability company" means any limited 863  
liability company formed under Chapter 1705. or 1706. of the 864  
Revised Code or under the laws of any other state. 865

(W) "Pass-through entity investor" means any person who, 866

during any portion of a taxable year of a pass-through entity, 867  
is a partner, member, shareholder, or equity investor in that 868  
pass-through entity. 869

(X) "Banking day" has the same meaning as in section 870  
1304.01 of the Revised Code. 871

(Y) "Month" means a calendar month. 872

(Z) "Quarter" means the first three months, the second 873  
three months, the third three months, or the last three months 874  
of the taxpayer's taxable year. 875

(AA) (1) "Modified business income" means the business 876  
income included in a trust's Ohio taxable income after such 877  
taxable income is first reduced by the qualifying trust amount, 878  
if any. 879

(2) "Qualifying trust amount" of a trust means capital 880  
gains and losses from the sale, exchange, or other disposition 881  
of equity or ownership interests in, or debt obligations of, a 882  
qualifying investee to the extent included in the trust's Ohio 883  
taxable income, but only if the following requirements are 884  
satisfied: 885

(a) The book value of the qualifying investee's physical 886  
assets in this state and everywhere, as of the last day of the 887  
qualifying investee's fiscal or calendar year ending immediately 888  
prior to the date on which the trust recognizes the gain or 889  
loss, is available to the trust. 890

(b) The requirements of section 5747.011 of the Revised 891  
Code are satisfied for the trust's taxable year in which the 892  
trust recognizes the gain or loss. 893

Any gain or loss that is not a qualifying trust amount is 894

modified business income, qualifying investment income, or 895  
modified nonbusiness income, as the case may be. 896

(3) "Modified nonbusiness income" means a trust's Ohio 897  
taxable income other than modified business income, other than 898  
the qualifying trust amount, and other than qualifying 899  
investment income, as defined in section 5747.012 of the Revised 900  
Code, to the extent such qualifying investment income is not 901  
otherwise part of modified business income. 902

(4) "Modified Ohio taxable income" applies only to trusts, 903  
and means the sum of the amounts described in divisions (AA) (4) 904  
(a) to (c) of this section: 905

(a) The fraction, calculated under section 5747.013, and 906  
applying section 5747.231 of the Revised Code, multiplied by the 907  
sum of the following amounts: 908

(i) The trust's modified business income; 909

(ii) The trust's qualifying investment income, as defined 910  
in section 5747.012 of the Revised Code, but only to the extent 911  
the qualifying investment income does not otherwise constitute 912  
modified business income and does not otherwise constitute a 913  
qualifying trust amount. 914

(b) The qualifying trust amount multiplied by a fraction, 915  
the numerator of which is the sum of the book value of the 916  
qualifying investee's physical assets in this state on the last 917  
day of the qualifying investee's fiscal or calendar year ending 918  
immediately prior to the day on which the trust recognizes the 919  
qualifying trust amount, and the denominator of which is the sum 920  
of the book value of the qualifying investee's total physical 921  
assets everywhere on the last day of the qualifying investee's 922  
fiscal or calendar year ending immediately prior to the day on 923



which the trust recognizes the qualifying trust amount. If, for 924  
a taxable year, the trust recognizes a qualifying trust amount 925  
with respect to more than one qualifying investee, the amount 926  
described in division (AA) (4) (b) of this section shall equal the 927  
sum of the products so computed for each such qualifying 928  
investee. 929

(c) (i) With respect to a trust or portion of a trust that 930  
is a resident as ascertained in accordance with division (I) (3) 931  
(d) of this section, its modified nonbusiness income. 932

(ii) With respect to a trust or portion of a trust that is 933  
not a resident as ascertained in accordance with division (I) (3) 934  
(d) of this section, the amount of its modified nonbusiness 935  
income satisfying the descriptions in divisions (B) (2) to (5) of 936  
section 5747.20 of the Revised Code, except as otherwise 937  
provided in division (AA) (4) (c) (ii) of this section. With 938  
respect to a trust or portion of a trust that is not a resident 939  
as ascertained in accordance with division (I) (3) (d) of this 940  
section, the trust's portion of modified nonbusiness income 941  
recognized from the sale, exchange, or other disposition of a 942  
debt interest in or equity interest in a section 5747.212 943  
entity, as defined in section 5747.212 of the Revised Code, 944  
without regard to division (A) of that section, shall not be 945  
allocated to this state in accordance with section 5747.20 of 946  
the Revised Code but shall be apportioned to this state in 947  
accordance with division (B) of section 5747.212 of the Revised 948  
Code without regard to division (A) of that section. 949

If the allocation and apportionment of a trust's income 950  
under divisions (AA) (4) (a) and (c) of this section do not fairly 951  
represent the modified Ohio taxable income of the trust in this 952  
state, the alternative methods described in division (C) of 953

section 5747.21 of the Revised Code may be applied in the manner 954  
and to the same extent provided in that section. 955

(5) (a) Except as set forth in division (AA) (5) (b) of this 956  
section, "qualifying investee" means a person in which a trust 957  
has an equity or ownership interest, or a person or unit of 958  
government the debt obligations of either of which are owned by 959  
a trust. For the purposes of division (AA) (2) (a) of this section 960  
and for the purpose of computing the fraction described in 961  
division (AA) (4) (b) of this section, all of the following apply: 962

(i) If the qualifying investee is a member of a qualifying 963  
controlled group on the last day of the qualifying investee's 964  
fiscal or calendar year ending immediately prior to the date on 965  
which the trust recognizes the gain or loss, then "qualifying 966  
investee" includes all persons in the qualifying controlled 967  
group on such last day. 968

(ii) If the qualifying investee, or if the qualifying 969  
investee and any members of the qualifying controlled group of 970  
which the qualifying investee is a member on the last day of the 971  
qualifying investee's fiscal or calendar year ending immediately 972  
prior to the date on which the trust recognizes the gain or 973  
loss, separately or cumulatively own, directly or indirectly, on 974  
the last day of the qualifying investee's fiscal or calendar 975  
year ending immediately prior to the date on which the trust 976  
recognizes the qualifying trust amount, more than fifty per cent 977  
of the equity of a pass-through entity, then the qualifying 978  
investee and the other members are deemed to own the 979  
proportionate share of the pass-through entity's physical assets 980  
which the pass-through entity directly or indirectly owns on the 981  
last day of the pass-through entity's calendar or fiscal year 982  
ending within or with the last day of the qualifying investee's 983

fiscal or calendar year ending immediately prior to the date on 984  
which the trust recognizes the qualifying trust amount. 985

(iii) For the purposes of division (AA) (5) (a) (iii) of this 986  
section, "upper level pass-through entity" means a pass-through 987  
entity directly or indirectly owning any equity of another pass- 988  
through entity, and "lower level pass-through entity" means that 989  
other pass-through entity. 990

An upper level pass-through entity, whether or not it is 991  
also a qualifying investee, is deemed to own, on the last day of 992  
the upper level pass-through entity's calendar or fiscal year, 993  
the proportionate share of the lower level pass-through entity's 994  
physical assets that the lower level pass-through entity 995  
directly or indirectly owns on the last day of the lower level 996  
pass-through entity's calendar or fiscal year ending within or 997  
with the last day of the upper level pass-through entity's 998  
fiscal or calendar year. If the upper level pass-through entity 999  
directly and indirectly owns less than fifty per cent of the 1000  
equity of the lower level pass-through entity on each day of the 1001  
upper level pass-through entity's calendar or fiscal year in 1002  
which or with which ends the calendar or fiscal year of the 1003  
lower level pass-through entity and if, based upon clear and 1004  
convincing evidence, complete information about the location and 1005  
cost of the physical assets of the lower pass-through entity is 1006  
not available to the upper level pass-through entity, then 1007  
solely for purposes of ascertaining if a gain or loss 1008  
constitutes a qualifying trust amount, the upper level pass- 1009  
through entity shall be deemed as owning no equity of the lower 1010  
level pass-through entity for each day during the upper level 1011  
pass-through entity's calendar or fiscal year in which or with 1012  
which ends the lower level pass-through entity's calendar or 1013  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1014

shall be construed to provide for any deduction or exclusion in 1015  
computing any trust's Ohio taxable income. 1016

(b) With respect to a trust that is not a resident for the 1017  
taxable year and with respect to a part of a trust that is not a 1018  
resident for the taxable year, "qualifying investee" for that 1019  
taxable year does not include a C corporation if both of the 1020  
following apply: 1021

(i) During the taxable year the trust or part of the trust 1022  
recognizes a gain or loss from the sale, exchange, or other 1023  
disposition of equity or ownership interests in, or debt 1024  
obligations of, the C corporation. 1025

(ii) Such gain or loss constitutes nonbusiness income. 1026

(6) "Available" means information is such that a person is 1027  
able to learn of the information by the due date plus 1028  
extensions, if any, for filing the return for the taxable year 1029  
in which the trust recognizes the gain or loss. 1030

(BB) "Qualifying controlled group" has the same meaning as 1031  
in section 5733.04 of the Revised Code. 1032

(CC) "Related member" has the same meaning as in section 1033  
5733.042 of the Revised Code. 1034

(DD) (1) For the purposes of division (DD) of this section: 1035

(a) "Qualifying person" means any person other than a 1036  
qualifying corporation. 1037

(b) "Qualifying corporation" means any person classified 1038  
for federal income tax purposes as an association taxable as a 1039  
corporation, except either of the following: 1040

(i) A corporation that has made an election under 1041

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;

(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.

(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.

(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:

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

(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 (EE)(3) of this section.

(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.

(4) A "pre-income tax trust" is a trust that satisfies all 1071  
of the following requirements: 1072

(a) The document or instrument creating the trust was 1073  
executed by the grantor before January 1, 1972; 1074

(b) The trust became irrevocable upon the creation of the 1075  
trust; and 1076

(c) The grantor was domiciled in this state at the time 1077  
the trust was created. 1078

(FF) "Uniformed services" has the same meaning as in 10  
U.S.C. 101. 1079  
1080

(GG) "Taxable business income" means the amount by which 1081  
an individual's business income that is included in federal 1082  
adjusted gross income exceeds the amount of business income the 1083  
individual is authorized to deduct under division (A) (28) of 1084  
this section for the taxable year. 1085

(HH) "Employer" does not include a franchisor with respect 1086  
to the franchisor's relationship with a franchisee or an 1087  
employee of a franchisee, unless the franchisor agrees to assume 1088  
that role in writing or a court of competent jurisdiction 1089  
determines that the franchisor exercises a type or degree of 1090  
control over the franchisee or the franchisee's employees that 1091  
is not customarily exercised by a franchisor for the purpose of 1092  
protecting the franchisor's trademark, brand, or both. For 1093  
purposes of this division, "franchisor" and "franchisee" have 1094  
the same meanings as in 16 C.F.R. 436.1. 1095

(II) "Modified adjusted gross income" means Ohio adjusted 1096  
gross income plus any amount deducted under divisions (A) (28) 1097  
and (34) of this section for the taxable year. 1098

(JJ) "Qualifying Ohio educator" means an individual who, 1099  
for a taxable year, qualifies as an eligible educator, as that 1100  
term is defined in section 62 of the Internal Revenue Code, and 1101  
who holds a certificate, license, or permit described in Chapter 1102  
3319. or section 3301.071 of the Revised Code. 1103

**Sec. 5747.05.** As used in this section, "income tax" 1104  
includes both a tax on net income and a tax measured by net 1105  
income. 1106

The following credits shall be allowed against the 1107  
aggregate income tax liability imposed by section 5747.02 of the 1108  
Revised Code on individuals and estates: 1109

(A) (1) The amount of tax otherwise due under section 1110  
5747.02 of the Revised Code on such portion of the combined 1111  
adjusted gross income and business income of any nonresident 1112  
taxpayer that is not allocable or apportionable to this state 1113  
pursuant to sections 5747.20 to 5747.23 of the Revised Code. The 1114  
credit provided under this division shall not exceed the total 1115  
tax due under section 5747.02 of the Revised Code. 1116

(2) The tax commissioner may enter into an agreement with 1117  
the taxing authorities of any state or of the District of 1118  
Columbia that imposes an income tax to provide that compensation 1119  
paid in this state to a nonresident taxpayer shall not be 1120  
subject to the tax levied in section 5747.02 of the Revised Code 1121  
so long as compensation paid in such other state or in the 1122  
District of Columbia to a resident taxpayer shall likewise not 1123  
be subject to the income tax of such other state or of the 1124  
District of Columbia. 1125

(B) The lesser of division (B) (1) or (2) of this section: 1126

(1) The aggregate amount of tax otherwise due under 1127

section 5747.02 of the Revised Code on such portion of the 1128  
combined adjusted gross income and business income of a resident 1129  
taxpayer that in another state or in the District of Columbia is 1130  
subjected to an income tax. The credit provided under division 1131  
(B) (1) of this section shall not exceed the total tax due under 1132  
section 5747.02 of the Revised Code. 1133

(2) The amount of income tax liability to another state or 1134  
the District of Columbia on the portion of the combined adjusted 1135  
gross income and business income of a resident taxpayer that in 1136  
another state or in the District of Columbia is subjected to an 1137  
income tax. The credit provided under division (B) (2) of this 1138  
section shall not exceed the total amount of tax otherwise due 1139  
under section 5747.02 of the Revised Code. 1140

(3) For the purpose of divisions (B) (1) and (2) of this 1141  
section, a resident taxpayer's combined adjusted gross income 1142  
and business income that is subject to an income tax levied in 1143  
another state or in the District of Columbia includes income 1144  
that is subject to either (a) a tax similar to the tax imposed 1145  
by division (D) (1) (a) of section 5747.08 of the Revised Code or 1146  
(b) a tax enacted for purposes of complying with internal 1147  
revenue service notice 2020-75. In computing a resident 1148  
taxpayer's income tax paid or accrued to another state or the 1149  
District of Columbia, the deduction authorized by division (A) 1150  
(28) of section 5747.01 of the Revised Code shall first be 1151  
deducted against business income apportioned to this state. 1152

(4) If the credit provided under division (B) of this 1153  
section is affected by a change in either the portion of the 1154  
combined adjusted gross income and business income of a resident 1155  
taxpayer subjected to an income tax in another state or the 1156  
District of Columbia or the amount of income tax liability that 1157



has been paid to another state or the District of Columbia, the 1158  
taxpayer shall report the change to the tax commissioner within 1159  
ninety days of the change in such form as the commissioner 1160  
requires. 1161

(a) In the case of an underpayment, the report shall be 1162  
accompanied by payment of any additional tax due as a result of 1163  
the reduction in credit together with interest on the additional 1164  
tax and is a return subject to assessment under section 5747.13 1165  
of the Revised Code solely for the purpose of assessing any 1166  
additional tax due under this division, together with any 1167  
applicable penalty and interest. It shall not reopen the 1168  
computation of the taxpayer's tax liability under this chapter 1169  
from a previously filed return no longer subject to assessment 1170  
except to the extent that such liability is affected by an 1171  
adjustment to the credit allowed by division (B) of this 1172  
section. 1173

(b) In the case of an overpayment, an application for 1174  
refund may be filed under this division within the ninety-day 1175  
period prescribed for filing the report even if it is beyond the 1176  
period prescribed in section 5747.11 of the Revised Code if it 1177  
otherwise conforms to the requirements of such section. An 1178  
application filed under this division shall only claim refund of 1179  
overpayments resulting from an adjustment to the credit allowed 1180  
by division (B) of this section unless it is also filed within 1181  
the time prescribed in section 5747.11 of the Revised Code. It 1182  
shall not reopen the computation of the taxpayer's tax liability 1183  
except to the extent that such liability is affected by an 1184  
adjustment to the credit allowed by division (B) of this 1185  
section. 1186

~~(4)~~ (5) No credit shall be allowed under division (B) of 1187

this section: 1188

(a) For income tax paid or accrued to another state or to 1189  
the District of Columbia if the taxpayer, when computing federal 1190  
adjusted gross income, has directly or indirectly deducted, or 1191  
was required to directly or indirectly deduct, the amount of 1192  
that income tax~~+~~. 1193

Division (B) (5) (a) of this section does not apply to 1194  
income taxes included in the computation of Ohio adjusted gross 1195  
income under division (A) (40) of section 5747.01 of the Revised 1196  
Code and not deducted from Ohio adjusted gross income under 1197  
division (A) (28) of that section or to income taxes included in 1198  
Ohio taxable income under division (S) (16) of section 5747.01 of 1199  
the Revised Code. 1200

(b) For compensation that is not subject to the income tax 1201  
of another state or the District of Columbia as the result of an 1202  
agreement entered into by the tax commissioner under division 1203  
(A) (3) of this section; or 1204

(c) For income tax paid or accrued to another state or the 1205  
District of Columbia if the taxpayer fails to furnish such proof 1206  
as the tax commissioner shall require that such income tax 1207  
liability has been paid. 1208

(C) An individual who is a resident for part of a taxable 1209  
year and a nonresident for the remainder of the taxable year is 1210  
allowed the credits under divisions (A) and (B) of this section 1211  
in accordance with rules prescribed by the tax commissioner. In 1212  
no event shall the same income be subject to both credits. 1213

(D) The credit allowed under division (A) of this section 1214  
shall be calculated based upon the amount of tax due under 1215  
section 5747.02 of the Revised Code after subtracting any other 1216

credits that precede the credit under that division in the order 1217  
required under section 5747.98 of the Revised Code. The credit 1218  
allowed under division (B) of this section shall be calculated 1219  
based upon the amount of tax due under section 5747.02 of the 1220  
Revised Code after subtracting any other credits that precede 1221  
the credit under that division in the order required under 1222  
section 5747.98 of the Revised Code. 1223

(E) (1) On a joint return filed by a husband and wife, each 1224  
of whom had adjusted gross income of at least five hundred 1225  
dollars, exclusive of interest, dividends and distributions, 1226  
royalties, rent, and capital gains, a credit equal to the lesser 1227  
of six hundred fifty dollars or the percentage shown in column B 1228  
that corresponds with the taxpayer's modified adjusted gross 1229  
income, less exemptions for the taxable year, of the total 1230  
amount of tax due after allowing for any other credit that 1231  
precedes this credit as required under section 5747.98 of the 1232  
Revised Code: 1233

1234

|   | 1  | 2                                   |
|---|--|-------------------------------------|
| A | A.   | B.                                  |
| B | IF THE MODIFIED ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS: | THE CREDIT FOR THE TAXABLE YEAR IS: |
| C | \$25,000 or less   | 20%                                 |
| D | More than \$25,000 but not more than \$50,000                                | 15%                                 |

|   |   |     |
|---|---|-----|
| E | More than \$50,000 but not more than \$75,000 | 10% |
| F | More than \$75,000                            | 5%  |

(2) The credit shall be claimed in the order required under section 5747.98 of the Revised Code. 1235  
1236

(F) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. 1237  
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**Sec. 5747.11.** (A) The tax commissioner shall refund to employers, qualifying entities, electing pass-through entities, or taxpayers subject to a tax imposed under section 5733.41, 5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised Code amounts that were overpaid, paid illegally or erroneously, or paid on an illegal or erroneous assessment. 1240  
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(B) (1) Except as otherwise provided under divisions (D) and (E) of this section, applications for refund shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years from the date of the illegal, erroneous, or excessive payment, or within any additional period allowed by division ~~(B) (3) (b)~~ (B) (4) (b) of section 5747.05, division (E) of section 5747.10, division (A) of section 5747.13, or division (C) of section 5747.45 of the Revised Code. 1246  
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On filing of the refund application, the commissioner shall determine the amount of refund due and, if that amount exceeds one dollar, certify such amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. Payment shall be made as provided in division (C) of 1254  
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section 126.35 of the Revised Code. 1260

(2) If an individual taxpayer is deceased, a refund may be 1261  
issued in the name of the decedent and of the executor, 1262  
administrator, or other person charged with the decedent's 1263  
property, upon the request of that person. Such a request shall 1264  
include any documentation, including a copy of the taxpayer's 1265  
death certificate and any fiduciary or court documents, that the 1266  
tax commissioner considers necessary to prove that the person 1267  
making the request is qualified to receive the refund. If the 1268  
request is for a refund that was previously issued in only the 1269  
decedent's name, the person making the request must also provide 1270  
the previously issued payment to the commissioner. 1271

(C) (1) Interest shall be allowed and paid at the rate per 1272  
annum prescribed by section 5703.47 of the Revised Code on 1273  
amounts refunded with respect to the tax imposed under section 1274  
5747.02 or Chapter 5748. of the Revised Code from the date of 1275  
the overpayment until the date of the refund of the overpayment, 1276  
except that if any overpayment is refunded within ninety days 1277  
after the final filing date of the annual return or ninety days 1278  
after the return is filed, whichever is later, no interest shall 1279  
be allowed on such overpayment. If the overpayment results from 1280  
the carryback of a net operating loss or net capital loss to a 1281  
previous taxable year, the overpayment is deemed not to have 1282  
been made prior to the filing date, including any extension 1283  
thereof, for the taxable year in which the net operating loss or 1284  
net capital loss arises. For purposes of the payment of interest 1285  
on overpayments, no amount of tax, for any taxable year, shall 1286  
be treated as having been paid before the date on which the tax 1287  
return for that year was due without regard to any extension of 1288  
time for filing such return. 1289

(2) Interest shall be allowed at the rate per annum 1290  
prescribed by section 5703.47 of the Revised Code on amounts 1291  
refunded with respect to the taxes imposed under sections 1292  
5733.41 and 5747.41 or under section 5747.38 of the Revised 1293  
Code. The interest shall run from whichever of the following 1294  
days is the latest until the day the refund is paid: the day the 1295  
illegal, erroneous, or excessive payment was made; the ninetieth 1296  
day after the final day the annual report was required to be 1297  
filed under section 5747.42 of the Revised Code; or the 1298  
ninetieth day after the day that report was filed. 1299

(D) "Ninety days" shall be substituted for "four years" in 1300  
division (B) of this section if the taxpayer satisfies both of 1301  
the following conditions: 1302

(1) The taxpayer has applied for a refund based in whole 1303  
or in part upon section 5747.059 of the Revised Code; 1304

(2) The taxpayer asserts that either the imposition or 1305  
collection of the tax imposed or charged by this chapter or any 1306  
portion of such tax violates the Constitution of the United 1307  
States or the Constitution of Ohio. 1308

(E) (1) Division (E) (2) of this section applies only if all 1309  
of the following conditions are satisfied: 1310

(a) A qualifying entity pays an amount of the tax imposed 1311  
by section 5733.41 or 5747.41 of the Revised Code; 1312

(b) The taxpayer is a qualifying investor as to that 1313  
qualifying entity; 1314

(c) The taxpayer did not claim the credit provided for in 1315  
section 5747.059 of the Revised Code as to the tax described in 1316  
division (E) (1) (a) of this section; 1317

(d) The four-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit.

(2) A taxpayer shall file an application for refund pursuant to division (E) of this section within one year after the date the payment described in division (E)(1)(a) of this section is made. An application filed under division (E)(2) of this section shall claim refund only of overpayments resulting from the taxpayer's failure to claim the credit described in division (E)(1)(c) of this section. Nothing in division (E) of this section shall be construed to relieve a taxpayer from complying with division (A)(15) of section 5747.01 of the Revised Code.

**Sec. 5747.13.** (A) If any employer collects the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code and fails to remit the tax as required by law, or fails to collect the tax, the employer is personally liable for any amount collected that the employer fails to remit, or any amount that the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code, the taxpayer is personally liable for the amount of the tax.

If any employer, taxpayer, qualifying entity, or electing pass-through entity required to file a return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credit allowed under division (B) of section 5747.05 of the Revised Code together with interest on the additional tax within

the time prescribed by that division, the tax commissioner may 1348  
make an assessment against any person liable for any deficiency 1349  
for the period for which the return is or taxes are due, based 1350  
upon any information in the commissioner's possession. 1351

An assessment issued against either the employer or the 1352  
taxpayer pursuant to this section shall not be considered an 1353  
election of remedies or a bar to an assessment against the other 1354  
for failure to report or pay the same tax. No assessment shall 1355  
be issued against any person if the tax actually has been paid 1356  
by another. 1357

No assessment shall be made or issued against an employer, 1358  
a taxpayer, a qualifying entity, or an electing pass-through 1359  
entity more than four years after the final date the return 1360  
subject to assessment was required to be filed or the date the 1361  
return was filed, whichever is later. However, the commissioner 1362  
may assess any balance due as the result of a reduction in the 1363  
credit allowed under division (B) of section 5747.05 of the 1364  
Revised Code, including applicable penalty and interest, within 1365  
four years of the date on which the taxpayer reports a change in 1366  
either the portion of the taxpayer's adjusted gross income 1367  
subjected to an income tax or tax measured by income in another 1368  
state or the District of Columbia, or the amount of liability 1369  
for an income tax or tax measured by income to another state or 1370  
the District of Columbia, as required by division ~~(B) (3)~~ (B) (4) 1371  
of section 5747.05 of the Revised Code. Such time limits may be 1372  
extended if both the employer, taxpayer, qualifying entity, or 1373  
electing pass-through entity and the commissioner consent in 1374  
writing to the extension or if an agreement waiving or extending 1375  
the time limits has been entered into pursuant to section 1376  
122.171 of the Revised Code. Any such extension shall extend the 1377  
four-year time limit in division (B) of section 5747.11 of the 1378



Revised Code for the same period of time. There shall be no bar 1379  
or limit to an assessment against an employer for taxes withheld 1380  
from employees and not remitted to the state, against an 1381  
employer, a taxpayer, a qualifying entity, or an electing pass- 1382  
through entity that fails to file a return subject to assessment 1383  
as required by this chapter, or against an employer, a taxpayer, 1384  
a qualifying entity, or an electing pass-through entity that 1385  
files a fraudulent return. 1386

The commissioner shall give the party assessed written 1387  
notice of the assessment in the manner provided in section 1388  
5703.37 of the Revised Code. With the notice, the commissioner 1389  
shall provide instructions on how to petition for reassessment 1390  
and request a hearing on the petition. 1391

(B) Unless the party assessed files with the tax 1392  
commissioner within sixty days after service of the notice of 1393  
assessment, either personally or by certified mail, a written 1394  
petition for reassessment, signed by the party assessed or that 1395  
party's authorized agent having knowledge of the facts, the 1396  
assessment becomes final, and the amount of the assessment is 1397  
due and payable from the party assessed to the commissioner with 1398  
remittance made payable to the treasurer of state. The petition 1399  
shall indicate the objections of the party assessed, but 1400  
additional objections may be raised in writing if received by 1401  
the commissioner prior to the date shown on the final 1402  
determination. If the petition has been properly filed, the 1403  
commissioner shall proceed under section 5703.60 of the Revised 1404  
Code. 1405

(C) After an assessment becomes final, if any portion of 1406  
the assessment remains unpaid, including accrued interest, a 1407  
certified copy of the tax commissioner's entry making the 1408

assessment final may be filed in the office of the clerk of the 1409  
court of common pleas in the county in which the employer's, 1410  
taxpayer's, qualifying entity's, or electing pass-through 1411  
entity's place of business is located or the county in which the 1412  
party assessed resides. If the party assessed is not a resident 1413  
of this state, the certified copy of the entry may be filed in 1414  
the office of the clerk of the court of common pleas of Franklin 1415  
county. 1416

Immediately upon the filing of the entry, the clerk shall 1417  
enter a judgment against the party assessed in the amount shown 1418  
on the entry. The judgment shall be filed by the clerk in one of 1419  
two loose-leaf books, one entitled "special judgments for state 1420  
and school district income taxes," and the other entitled 1421  
"special judgments for qualifying entity and electing pass- 1422  
through entity taxes." The judgment shall have the same effect 1423  
as other judgments. Execution shall issue upon the judgment upon 1424  
the request of the tax commissioner, and all laws applicable to 1425  
sales on execution shall apply to sales made under the judgment. 1426

If the assessment is not paid in its entirety within sixty 1427  
days after the assessment was issued, the portion of the 1428  
assessment consisting of tax due shall bear interest at the rate 1429  
per annum prescribed by section 5703.47 of the Revised Code from 1430  
the day the tax commissioner issues the assessment until it is 1431  
paid or until it is certified to the attorney general for 1432  
collection under section 131.02 of the Revised Code, whichever 1433  
comes first. If the unpaid portion of the assessment is 1434  
certified to the attorney general for collection, the entire 1435  
unpaid portion of the assessment shall bear interest at the rate 1436  
per annum prescribed by section 5703.47 of the Revised Code from 1437  
the date of certification until the date it is paid in its 1438  
entirety. Interest shall be paid in the same manner as the tax 1439

and may be collected by the issuance of an assessment under this section. 1440  
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(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter or Chapter 5733. or 5748. of the Revised Code, as appropriate. 1442  
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(E) If the party assessed files a petition for reassessment under division (B) of this section, the person, on or before the last day the petition may be filed, shall pay the assessed amount, including assessed interest and assessed penalties, if any of the following conditions exists: 1446  
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(1) The person files a tax return reporting Ohio adjusted gross income, less the exemptions allowed by section 5747.025 of the Revised Code, in an amount less than one cent, and the reported amount is not based on the computations required under division (A) of section 5747.01 or section 5747.025 of the Revised Code. 1451  
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(2) The person files a tax return that the tax commissioner determines to be incomplete, false, fraudulent, or frivolous. 1457  
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(3) The person fails to file a tax return, and the basis for this failure is not either of the following: 1460  
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(a) An assertion that the person has no nexus with this state; 1462  
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(b) The computations required under division (A) of section 5747.01 of the Revised Code or the application of credits allowed under this chapter has the result that the person's tax liability is less than one dollar and one cent. 1464  
1465  
1466  
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(F) Notwithstanding the fact that a petition for 1468  
reassessment is pending, the petitioner may pay all or a portion 1469  
of the assessment that is the subject of the petition. The 1470  
acceptance of a payment by the treasurer of state does not 1471  
prejudice any claim for refund upon final determination of the 1472  
petition. 1473

If upon final determination of the petition an error in 1474  
the assessment is corrected by the tax commissioner, upon 1475  
petition so filed or pursuant to a decision of the board of tax 1476  
appeals or any court to which the determination or decision has 1477  
been appealed, so that the amount due from the party assessed 1478  
under the corrected assessment is less than the portion paid, 1479  
there shall be issued to the petitioner or to the petitioner's 1480  
assigns or legal representative a refund in the amount of the 1481  
overpayment as provided by section 5747.11 of the Revised Code, 1482  
with interest on that amount as provided by such section, 1483  
subject to section 5747.12 of the Revised Code. 1484

**Section 2.** That existing sections 5747.01, 5747.05, 1485  
5747.11, and 5747.13 of the Revised Code are hereby repealed. 1486

**Section 3.** (A) Subject to division (B) of this section, 1487  
the amendment by this act of sections 5747.01 and 5747.05 of the 1488  
Revised Code applies to taxable years ending on or after January 1489  
1, 2023. 1490

(B) A taxpayer may apply the amendment by this act of 1491  
sections 5747.01 and 5747.05 of the Revised Code to taxable 1492  
years ending on or after January 1, 2022, but before January 1, 1493  
2023. A taxpayer applying that amendment for such a taxable year 1494  
shall file an amended return, or apply that amendment on the 1495  
taxpayer's original return, for that year. 1496

**Section 4.** Section 5747.01 of the Revised Code is 1497  
presented in this act as a composite of the section as amended 1498  
by H.B. 45, H.B. 110, H.B. 150, H.B. 515, S.B. 33, and S.B. 246, 1499  
all of the 134th General Assembly. The General Assembly, 1500  
applying the principle stated in division (B) of section 1.52 of 1501  
the Revised Code that amendments are to be harmonized if 1502  
reasonably capable of simultaneous operation, finds that the 1503  
composite is the resulting version of the section in effect 1504  
prior to the effective date of the section as presented in this 1505  
act. 1506