

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 186

Representatives Rogers, Scherer

Cosponsors: Representatives Antani, Antonio, Arndt, Bishoff, Bocchieri, Boggs, Celebrezze, Cera, Clyde, Fedor, Henne, Hood, O'Brien, Patterson, Ramos, Sheehy, Smith, K., Sweeney, Vitale, West

A BILL

To amend section 5747.01 and to enact section 1
5747.82 of the Revised Code to enact the "Blair 2
Deduction" to allow an individual obtaining a 3
post-secondary degree or credential from an 4
eligible educational institution to claim an 5
income tax deduction for qualified higher 6
education expenses. 7

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

Section 1. That section 5747.01 be amended and section 8
5747.82 of the Revised Code be enacted to read as follows: 9

Sec. 5747.01. Except as otherwise expressly provided or 10
clearly appearing from the context, any term used in this 11
chapter that is not otherwise defined in this section has the 12
same meaning as when used in a comparable context in the laws of 13
the United States relating to federal income taxes or if not 14
used in a comparable context in those laws, has the same meaning 15
as in section 5733.40 of the Revised Code. Any reference in this 16
chapter to the Internal Revenue Code includes other laws of the 17

United States relating to federal income taxes.	18
As used in this chapter:	19
(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:	20
	21
	22
	23
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	24
	25
	26
	27
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	28
	29
	30
	31
	32
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	33
	34
	35
	36
	37
	38
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	39
	40
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	41
	42
	43
	44
(6) In the case of a taxpayer who is a beneficiary of a	45

trust that makes an accumulation distribution as defined in 46
section 665 of the Internal Revenue Code, add, for the 47
beneficiary's taxable years beginning before 2002, the portion, 48
if any, of such distribution that does not exceed the 49
undistributed net income of the trust for the three taxable 50
years preceding the taxable year in which the distribution is 51
made to the extent that the portion was not included in the 52
trust's taxable income for any of the trust's taxable years 53
beginning in 2002 or thereafter. "Undistributed net income of a 54
trust" means the taxable income of the trust increased by (a) (i) 55
the additions to adjusted gross income required under division 56
(A) of this section and (ii) the personal exemptions allowed to 57
the trust pursuant to section 642(b) of the Internal Revenue 58
Code, and decreased by (b) (i) the deductions to adjusted gross 59
income required under division (A) of this section, (ii) the 60
amount of federal income taxes attributable to such income, and 61
(iii) the amount of taxable income that has been included in the 62
adjusted gross income of a beneficiary by reason of a prior 63
accumulation distribution. Any undistributed net income included 64
in the adjusted gross income of a beneficiary shall reduce the 65
undistributed net income of the trust commencing with the 66
earliest years of the accumulation period. 67

(7) Deduct the amount of wages and salaries, if any, not 68
otherwise allowable as a deduction but that would have been 69
allowable as a deduction in computing federal adjusted gross 70
income for the taxable year, had the targeted jobs credit 71
allowed and determined under sections 38, 51, and 52 of the 72
Internal Revenue Code not been in effect. 73

(8) Deduct any interest or interest equivalent on public 74
obligations and purchase obligations to the extent that the 75
interest or interest equivalent is included in federal adjusted 76

gross income. 77

(9) Add any loss or deduct any gain resulting from the 78
sale, exchange, or other disposition of public obligations to 79
the extent that the loss has been deducted or the gain has been 80
included in computing federal adjusted gross income. 81

(10) Deduct or add amounts, as provided under section 82
5747.70 of the Revised Code, related to contributions to 83
variable college savings program accounts made or tuition units 84
purchased pursuant to Chapter 3334. of the Revised Code. 85

(11) (a) Deduct, to the extent not otherwise allowable as a 86
deduction or exclusion in computing federal or Ohio adjusted 87
gross income for the taxable year, the amount the taxpayer paid 88
during the taxable year for medical care insurance and qualified 89
long-term care insurance for the taxpayer, the taxpayer's 90
spouse, and dependents. No deduction for medical care insurance 91
under division (A) (11) of this section shall be allowed either 92
to any taxpayer who is eligible to participate in any subsidized 93
health plan maintained by any employer of the taxpayer or of the 94
taxpayer's spouse, or to any taxpayer who is entitled to, or on 95
application would be entitled to, benefits under part A of Title 96
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 97
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 98
of this section, "subsidized health plan" means a health plan 99
for which the employer pays any portion of the plan's cost. The 100
deduction allowed under division (A) (11) (a) of this section 101
shall be the net of any related premium refunds, related premium 102
reimbursements, or related insurance premium dividends received 103
during the taxable year. 104

(b) Deduct, to the extent not otherwise deducted or 105
excluded in computing federal or Ohio adjusted gross income 106

during the taxable year, the amount the taxpayer paid during the 107
taxable year, not compensated for by any insurance or otherwise, 108
for medical care of the taxpayer, the taxpayer's spouse, and 109
dependents, to the extent the expenses exceed seven and one-half 110
per cent of the taxpayer's federal adjusted gross income. 111

(c) Deduct, to the extent not otherwise deducted or 112
excluded in computing federal or Ohio adjusted gross income, any 113
amount included in federal adjusted gross income under section 114
105 or not excluded under section 106 of the Internal Revenue 115
Code solely because it relates to an accident and health plan 116
for a person who otherwise would be a "qualifying relative" and 117
thus a "dependent" under section 152 of the Internal Revenue 118
Code but for the fact that the person fails to meet the income 119
and support limitations under section 152(d)(1)(B) and (C) of 120
the Internal Revenue Code. 121

(d) For purposes of division (A)(11) of this section, 122
"medical care" has the meaning given in section 213 of the 123
Internal Revenue Code, subject to the special rules, 124
limitations, and exclusions set forth therein, and "qualified 125
long-term care" has the same meaning given in section 7702B(c) 126
of the Internal Revenue Code. Solely for purposes of divisions 127
(A)(11)(a) and (c) of this section, "dependent" includes a 128
person who otherwise would be a "qualifying relative" and thus a 129
"dependent" under section 152 of the Internal Revenue Code but 130
for the fact that the person fails to meet the income and 131
support limitations under section 152(d)(1)(B) and (C) of the 132
Internal Revenue Code. 133

(12)(a) Deduct any amount included in federal adjusted 134
gross income solely because the amount represents a 135
reimbursement or refund of expenses that in any year the 136

taxpayer had deducted as an itemized deduction pursuant to 137
section 63 of the Internal Revenue Code and applicable United 138
States department of the treasury regulations. The deduction 139
otherwise allowed under division (A) (12) (a) of this section 140
shall be reduced to the extent the reimbursement is attributable 141
to an amount the taxpayer deducted under this section in any 142
taxable year. 143

(b) Add any amount not otherwise included in Ohio adjusted 144
gross income for any taxable year to the extent that the amount 145
is attributable to the recovery during the taxable year of any 146
amount deducted or excluded in computing federal or Ohio 147
adjusted gross income in any taxable year. 148

(13) Deduct any portion of the deduction described in 149
section 1341(a) (2) of the Internal Revenue Code, for repaying 150
previously reported income received under a claim of right, that 151
meets both of the following requirements: 152

(a) It is allowable for repayment of an item that was 153
included in the taxpayer's adjusted gross income for a prior 154
taxable year and did not qualify for a credit under division (A) 155
or (B) of section 5747.05 of the Revised Code for that year; 156

(b) It does not otherwise reduce the taxpayer's adjusted 157
gross income for the current or any other taxable year. 158

(14) Deduct an amount equal to the deposits made to, and 159
net investment earnings of, a medical savings account during the 160
taxable year, in accordance with section 3924.66 of the Revised 161
Code. The deduction allowed by division (A) (14) of this section 162
does not apply to medical savings account deposits and earnings 163
otherwise deducted or excluded for the current or any other 164
taxable year from the taxpayer's federal adjusted gross income. 165

(15) (a) Add an amount equal to the funds withdrawn from a 166
medical savings account during the taxable year, and the net 167
investment earnings on those funds, when the funds withdrawn 168
were used for any purpose other than to reimburse an account 169
holder for, or to pay, eligible medical expenses, in accordance 170
with section 3924.66 of the Revised Code; 171

(b) Add the amounts distributed from a medical savings 172
account under division (A) (2) of section 3924.68 of the Revised 173
Code during the taxable year. 174

(16) Add any amount claimed as a credit under section 175
5747.059 or 5747.65 of the Revised Code to the extent that such 176
amount satisfies either of the following: 177

(a) The amount was deducted or excluded from the 178
computation of the taxpayer's federal adjusted gross income as 179
required to be reported for the taxpayer's taxable year under 180
the Internal Revenue Code; 181

(b) The amount resulted in a reduction of the taxpayer's 182
federal adjusted gross income as required to be reported for any 183
of the taxpayer's taxable years under the Internal Revenue Code. 184

(17) Deduct the amount contributed by the taxpayer to an 185
individual development account program established by a county 186
department of job and family services pursuant to sections 187
329.11 to 329.14 of the Revised Code for the purpose of matching 188
funds deposited by program participants. On request of the tax 189
commissioner, the taxpayer shall provide any information that, 190
in the tax commissioner's opinion, is necessary to establish the 191
amount deducted under division (A) (17) of this section. 192

(18) Beginning in taxable year 2001 but not for any 193
taxable year beginning after December 31, 2005, if the taxpayer 194

is married and files a joint return and the combined federal 195
adjusted gross income of the taxpayer and the taxpayer's spouse 196
for the taxable year does not exceed one hundred thousand 197
dollars, or if the taxpayer is single and has a federal adjusted 198
gross income for the taxable year not exceeding fifty thousand 199
dollars, deduct amounts paid during the taxable year for 200
qualified tuition and fees paid to an eligible institution for 201
the taxpayer, the taxpayer's spouse, or any dependent of the 202
taxpayer, who is a resident of this state and is enrolled in or 203
attending a program that culminates in a degree or diploma at an 204
eligible institution. The deduction may be claimed only to the 205
extent that qualified tuition and fees are not otherwise 206
deducted or excluded for any taxable year from federal or Ohio 207
adjusted gross income. The deduction may not be claimed for 208
educational expenses for which the taxpayer claims a credit 209
under section 5747.27 of the Revised Code. 210

(19) Add any reimbursement received during the taxable 211
year of any amount the taxpayer deducted under division (A) (18) 212
of this section in any previous taxable year to the extent the 213
amount is not otherwise included in Ohio adjusted gross income. 214

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 215
(v) of this section, add five-sixths of the amount of 216
depreciation expense allowed by subsection (k) of section 168 of 217
the Internal Revenue Code, including the taxpayer's 218
proportionate or distributive share of the amount of 219
depreciation expense allowed by that subsection to a pass- 220
through entity in which the taxpayer has a direct or indirect 221
ownership interest. 222

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 223
of this section, add five-sixths of the amount of qualifying 224

section 179 depreciation expense, including the taxpayer's 225
proportionate or distributive share of the amount of qualifying 226
section 179 depreciation expense allowed to any pass-through 227
entity in which the taxpayer has a direct or indirect ownership 228
interest. 229

(iii) Subject to division (A)(20)(a)(v) of this section, 230
for taxable years beginning in 2012 or thereafter, if the 231
increase in income taxes withheld by the taxpayer is equal to or 232
greater than ten per cent of income taxes withheld by the 233
taxpayer during the taxpayer's immediately preceding taxable 234
year, "two-thirds" shall be substituted for "five-sixths" for 235
the purpose of divisions (A)(20)(a)(i) and (ii) of this section. 236

(iv) Subject to division (A)(20)(a)(v) of this section, 237
for taxable years beginning in 2012 or thereafter, a taxpayer is 238
not required to add an amount under division (A)(20) of this 239
section if the increase in income taxes withheld by the taxpayer 240
and by any pass-through entity in which the taxpayer has a 241
direct or indirect ownership interest is equal to or greater 242
than the sum of (I) the amount of qualifying section 179 243
depreciation expense and (II) the amount of depreciation expense 244
allowed to the taxpayer by subsection (k) of section 168 of the 245
Internal Revenue Code, and including the taxpayer's 246
proportionate or distributive shares of such amounts allowed to 247
any such pass-through entities. 248

(v) If a taxpayer directly or indirectly incurs a net 249
operating loss for the taxable year for federal income tax 250
purposes, to the extent such loss resulted from depreciation 251
expense allowed by subsection (k) of section 168 of the Internal 252
Revenue Code and by qualifying section 179 depreciation expense, 253
"the entire" shall be substituted for "five-sixths of the" for 254

the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 255

The tax commissioner, under procedures established by the 256
commissioner, may waive the add-backs related to a pass-through 257
entity if the taxpayer owns, directly or indirectly, less than 258
five per cent of the pass-through entity. 259

(b) Nothing in division (A) (20) of this section shall be 260
construed to adjust or modify the adjusted basis of any asset. 261

(c) To the extent the add-back required under division (A) 262
(20) (a) of this section is attributable to property generating 263
nonbusiness income or loss allocated under section 5747.20 of 264
the Revised Code, the add-back shall be situated to the same 265
location as the nonbusiness income or loss generated by the 266
property for the purpose of determining the credit under 267
division (A) of section 5747.05 of the Revised Code. Otherwise, 268
the add-back shall be apportioned, subject to one or more of the 269
four alternative methods of apportionment enumerated in section 270
5747.21 of the Revised Code. 271

(d) For the purposes of division (A) (20) (a) (v) of this 272
section, net operating loss carryback and carryforward shall not 273
include the allowance of any net operating loss deduction 274
carryback or carryforward to the taxable year to the extent such 275
loss resulted from depreciation allowed by section 168(k) of the 276
Internal Revenue Code and by the qualifying section 179 277
depreciation expense amount. 278

(e) For the purposes of divisions (A) (20) and (21) of this 279
section: 280

(i) "Income taxes withheld" means the total amount 281
withheld and remitted under sections 5747.06 and 5747.07 of the 282
Revised Code by an employer during the employer's taxable year. 283

(ii) "Increase in income taxes withheld" means the amount 284
by which the amount of income taxes withheld by an employer 285
during the employer's current taxable year exceeds the amount of 286
income taxes withheld by that employer during the employer's 287
immediately preceding taxable year. 288

(iii) "Qualifying section 179 depreciation expense" means 289
the difference between (I) the amount of depreciation expense 290
directly or indirectly allowed to a taxpayer under section 179 291
of the Internal Revised Code, and (II) the amount of 292
depreciation expense directly or indirectly allowed to the 293
taxpayer under section 179 of the Internal Revenue Code as that 294
section existed on December 31, 2002. 295

(21) (a) If the taxpayer was required to add an amount 296
under division (A) (20) (a) of this section for a taxable year, 297
deduct one of the following: 298

(i) One-fifth of the amount so added for each of the five 299
succeeding taxable years if the amount so added was five-sixths 300
of qualifying section 179 depreciation expense or depreciation 301
expense allowed by subsection (k) of section 168 of the Internal 302
Revenue Code; 303

(ii) One-half of the amount so added for each of the two 304
succeeding taxable years if the amount so added was two-thirds 305
of such depreciation expense; 306

(iii) One-sixth of the amount so added for each of the six 307
succeeding taxable years if the entire amount of such 308
depreciation expense was so added. 309

(b) If the amount deducted under division (A) (21) (a) of 310
this section is attributable to an add-back allocated under 311
division (A) (20) (c) of this section, the amount deducted shall 312

be situated to the same location. Otherwise, the add-back shall 313
be apportioned using the apportionment factors for the taxable 314
year in which the deduction is taken, subject to one or more of 315
the four alternative methods of apportionment enumerated in 316
section 5747.21 of the Revised Code. 317

(c) No deduction is available under division (A) (21) (a) of 318
this section with regard to any depreciation allowed by section 319
168(k) of the Internal Revenue Code and by the qualifying 320
section 179 depreciation expense amount to the extent that such 321
depreciation results in or increases a federal net operating 322
loss carryback or carryforward. If no such deduction is 323
available for a taxable year, the taxpayer may carry forward the 324
amount not deducted in such taxable year to the next taxable 325
year and add that amount to any deduction otherwise available 326
under division (A) (21) (a) of this section for that next taxable 327
year. The carryforward of amounts not so deducted shall continue 328
until the entire addition required by division (A) (20) (a) of 329
this section has been deducted. 330

(d) No refund shall be allowed as a result of adjustments 331
made by division (A) (21) of this section. 332

(22) Deduct, to the extent not otherwise deducted or 333
excluded in computing federal or Ohio adjusted gross income for 334
the taxable year, the amount the taxpayer received during the 335
taxable year as reimbursement for life insurance premiums under 336
section 5919.31 of the Revised Code. 337

(23) Deduct, to the extent not otherwise deducted or 338
excluded in computing federal or Ohio adjusted gross income for 339
the taxable year, the amount the taxpayer received during the 340
taxable year as a death benefit paid by the adjutant general 341
under section 5919.33 of the Revised Code. 342

(24) Deduct, to the extent included in federal adjusted 343
gross income and not otherwise allowable as a deduction or 344
exclusion in computing federal or Ohio adjusted gross income for 345
the taxable year, military pay and allowances received by the 346
taxpayer during the taxable year for active duty service in the 347
United States army, air force, navy, marine corps, or coast 348
guard or reserve components thereof or the national guard. The 349
deduction may not be claimed for military pay and allowances 350
received by the taxpayer while the taxpayer is stationed in this 351
state. 352

(25) Deduct, to the extent not otherwise allowable as a 353
deduction or exclusion in computing federal or Ohio adjusted 354
gross income for the taxable year and not otherwise compensated 355
for by any other source, the amount of qualified organ donation 356
expenses incurred by the taxpayer during the taxable year, not 357
to exceed ten thousand dollars. A taxpayer may deduct qualified 358
organ donation expenses only once for all taxable years 359
beginning with taxable years beginning in 2007. 360

For the purposes of division (A) (25) of this section: 361

(a) "Human organ" means all or any portion of a human 362
liver, pancreas, kidney, intestine, or lung, and any portion of 363
human bone marrow. 364

(b) "Qualified organ donation expenses" means travel 365
expenses, lodging expenses, and wages and salary forgone by a 366
taxpayer in connection with the taxpayer's donation, while 367
living, of one or more of the taxpayer's human organs to another 368
human being. 369

(26) Deduct, to the extent not otherwise deducted or 370
excluded in computing federal or Ohio adjusted gross income for 371

the taxable year, amounts received by the taxpayer as retired 372
personnel pay for service in the uniformed services or reserve 373
components thereof, or the national guard, or received by the 374
surviving spouse or former spouse of such a taxpayer under the 375
survivor benefit plan on account of such a taxpayer's death. If 376
the taxpayer receives income on account of retirement paid under 377
the federal civil service retirement system or federal employees 378
retirement system, or under any successor retirement program 379
enacted by the congress of the United States that is established 380
and maintained for retired employees of the United States 381
government, and such retirement income is based, in whole or in 382
part, on credit for the taxpayer's uniformed service, the 383
deduction allowed under this division shall include only that 384
portion of such retirement income that is attributable to the 385
taxpayer's uniformed service, to the extent that portion of such 386
retirement income is otherwise included in federal adjusted 387
gross income and is not otherwise deducted under this section. 388
Any amount deducted under division (A) (26) of this section is 389
not included in a taxpayer's adjusted gross income for the 390
purposes of section 5747.055 of the Revised Code. No amount may 391
be deducted under division (A) (26) of this section on the basis 392
of which a credit was claimed under section 5747.055 of the 393
Revised Code. 394

(27) Deduct, to the extent not otherwise deducted or 395
excluded in computing federal or Ohio adjusted gross income for 396
the taxable year, the amount the taxpayer received during the 397
taxable year from the military injury relief fund created in 398
section 5902.05 of the Revised Code. 399

(28) Deduct, to the extent not otherwise deducted or 400
excluded in computing federal or Ohio adjusted gross income for 401
the taxable year, the amount the taxpayer received as a veterans 402

bonus during the taxable year from the Ohio department of 403
veterans services as authorized by Section 2r of Article VIII, 404
Ohio Constitution. 405

(29) Deduct, to the extent not otherwise deducted or 406
excluded in computing federal or Ohio adjusted gross income for 407
the taxable year, any income derived from a transfer agreement 408
or from the enterprise transferred under that agreement under 409
section 4313.02 of the Revised Code. 410

(30) Deduct, to the extent not otherwise deducted or 411
excluded in computing federal or Ohio adjusted gross income for 412
the taxable year, Ohio college opportunity or federal Pell grant 413
amounts received by the taxpayer or the taxpayer's spouse or 414
dependent pursuant to section 3333.122 of the Revised Code or 20 415
U.S.C. 1070a, et seq., and used to pay room or board furnished 416
by the educational institution for which the grant was awarded 417
at the institution's facilities, including meal plans 418
administered by the institution. For the purposes of this 419
division, receipt of a grant includes the distribution of a 420
grant directly to an educational institution and the crediting 421
of the grant to the enrollee's account with the institution. 422

(31) (a) For taxable years beginning in 2015, deduct from 423
the portion of an individual's adjusted gross income that is 424
business income, to the extent not otherwise deducted or 425
excluded in computing federal or Ohio adjusted gross income for 426
the taxable year, the lesser of the following amounts: 427

(i) Seventy-five per cent of the individual's business 428
income; 429

(ii) Ninety-three thousand seven hundred fifty dollars for 430
each spouse if spouses file separate returns under section 431

5747.08 of the Revised Code or one hundred eighty-seven thousand 432
five hundred dollars for all other individuals. 433

(b) For taxable years beginning in 2016 or thereafter, 434
deduct from the portion of an individual's adjusted gross income 435
that is business income, to the extent not otherwise deducted or 436
excluded in computing federal adjusted gross income for the 437
taxable year, one hundred twenty-five thousand dollars for each 438
spouse if spouses file separate returns under section 5747.08 of 439
the Revised Code or two hundred fifty thousand dollars for all 440
other individuals. 441

(32) Deduct, as provided under section 5747.78 of the 442
Revised Code, contributions to ABLE savings accounts made in 443
accordance with sections 113.50 to 113.56 of the Revised Code. 444

(33) Deduct qualified higher education expenses to the 445
extent allowed under section 5747.82 of the Revised Code. 446

(B) "Business income" means income, including gain or 447
loss, arising from transactions, activities, and sources in the 448
regular course of a trade or business and includes income, gain, 449
or loss from real property, tangible property, and intangible 450
property if the acquisition, rental, management, and disposition 451
of the property constitute integral parts of the regular course 452
of a trade or business operation. "Business income" includes 453
income, including gain or loss, from a partial or complete 454
liquidation of a business, including, but not limited to, gain 455
or loss from the sale or other disposition of goodwill. 456

(C) "Nonbusiness income" means all income other than 457
business income and may include, but is not limited to, 458
compensation, rents and royalties from real or tangible personal 459
property, capital gains, interest, dividends and distributions, 460

patent or copyright royalties, or lottery winnings, prizes, and 461
awards. 462

(D) "Compensation" means any form of remuneration paid to 463
an employee for personal services. 464

(E) "Fiduciary" means a guardian, trustee, executor, 465
administrator, receiver, conservator, or any other person acting 466
in any fiduciary capacity for any individual, trust, or estate. 467

(F) "Fiscal year" means an accounting period of twelve 468
months ending on the last day of any month other than December. 469

(G) "Individual" means any natural person. 470

(H) "Internal Revenue Code" means the "Internal Revenue 471
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 472

(I) "Resident" means any of the following, provided that 473
division (I) (3) of this section applies only to taxable years of 474
a trust beginning in 2002 or thereafter: 475

(1) An individual who is domiciled in this state, subject 476
to section 5747.24 of the Revised Code; 477

(2) The estate of a decedent who at the time of death was 478
domiciled in this state. The domicile tests of section 5747.24 479
of the Revised Code are not controlling for purposes of division 480
(I) (2) of this section. 481

(3) A trust that, in whole or part, resides in this state. 482
If only part of a trust resides in this state, the trust is a 483
resident only with respect to that part. 484

For the purposes of division (I) (3) of this section: 485

(a) A trust resides in this state for the trust's current 486
taxable year to the extent, as described in division (I) (3) (d) 487

of this section, that the trust consists directly or indirectly, 488
in whole or in part, of assets, net of any related liabilities, 489
that were transferred, or caused to be transferred, directly or 490
indirectly, to the trust by any of the following: 491

(i) A person, a court, or a governmental entity or 492
instrumentality on account of the death of a decedent, but only 493
if the trust is described in division (I)(3)(e)(i) or (ii) of 494
this section; 495

(ii) A person who was domiciled in this state for the 496
purposes of this chapter when the person directly or indirectly 497
transferred assets to an irrevocable trust, but only if at least 498
one of the trust's qualifying beneficiaries is domiciled in this 499
state for the purposes of this chapter during all or some 500
portion of the trust's current taxable year; 501

(iii) A person who was domiciled in this state for the 502
purposes of this chapter when the trust document or instrument 503
or part of the trust document or instrument became irrevocable, 504
but only if at least one of the trust's qualifying beneficiaries 505
is a resident domiciled in this state for the purposes of this 506
chapter during all or some portion of the trust's current 507
taxable year. If a trust document or instrument became 508
irrevocable upon the death of a person who at the time of death 509
was domiciled in this state for purposes of this chapter, that 510
person is a person described in division (I)(3)(a)(iii) of this 511
section. 512

(b) A trust is irrevocable to the extent that the 513
transferor is not considered to be the owner of the net assets 514
of the trust under sections 671 to 678 of the Internal Revenue 515
Code. 516

(c) With respect to a trust other than a charitable lead 517
trust, "qualifying beneficiary" has the same meaning as 518
"potential current beneficiary" as defined in section 1361(e) (2) 519
of the Internal Revenue Code, and with respect to a charitable 520
lead trust "qualifying beneficiary" is any current, future, or 521
contingent beneficiary, but with respect to any trust 522
"qualifying beneficiary" excludes a person or a governmental 523
entity or instrumentality to any of which a contribution would 524
qualify for the charitable deduction under section 170 of the 525
Internal Revenue Code. 526

(d) For the purposes of division (I) (3) (a) of this 527
section, the extent to which a trust consists directly or 528
indirectly, in whole or in part, of assets, net of any related 529
liabilities, that were transferred directly or indirectly, in 530
whole or part, to the trust by any of the sources enumerated in 531
that division shall be ascertained by multiplying the fair 532
market value of the trust's assets, net of related liabilities, 533
by the qualifying ratio, which shall be computed as follows: 534

(i) The first time the trust receives assets, the 535
numerator of the qualifying ratio is the fair market value of 536
those assets at that time, net of any related liabilities, from 537
sources enumerated in division (I) (3) (a) of this section. The 538
denominator of the qualifying ratio is the fair market value of 539
all the trust's assets at that time, net of any related 540
liabilities. 541

(ii) Each subsequent time the trust receives assets, a 542
revised qualifying ratio shall be computed. The numerator of the 543
revised qualifying ratio is the sum of (1) the fair market value 544
of the trust's assets immediately prior to the subsequent 545
transfer, net of any related liabilities, multiplied by the 546

qualifying ratio last computed without regard to the subsequent 547
transfer, and (2) the fair market value of the subsequently 548
transferred assets at the time transferred, net of any related 549
liabilities, from sources enumerated in division (I) (3) (a) of 550
this section. The denominator of the revised qualifying ratio is 551
the fair market value of all the trust's assets immediately 552
after the subsequent transfer, net of any related liabilities. 553

(iii) Whether a transfer to the trust is by or from any of 554
the sources enumerated in division (I) (3) (a) of this section 555
shall be ascertained without regard to the domicile of the 556
trust's beneficiaries. 557

(e) For the purposes of division (I) (3) (a) (i) of this 558
section: 559

(i) A trust is described in division (I) (3) (e) (i) of this 560
section if the trust is a testamentary trust and the testator of 561
that testamentary trust was domiciled in this state at the time 562
of the testator's death for purposes of the taxes levied under 563
Chapter 5731. of the Revised Code. 564

(ii) A trust is described in division (I) (3) (e) (ii) of 565
this section if the transfer is a qualifying transfer described 566
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 567
trust is an irrevocable inter vivos trust, and at least one of 568
the trust's qualifying beneficiaries is domiciled in this state 569
for purposes of this chapter during all or some portion of the 570
trust's current taxable year. 571

(f) For the purposes of division (I) (3) (e) (ii) of this 572
section, a "qualifying transfer" is a transfer of assets, net of 573
any related liabilities, directly or indirectly to a trust, if 574
the transfer is described in any of the following: 575

(i) The transfer is made to a trust, created by the 576
decedent before the decedent's death and while the decedent was 577
domiciled in this state for the purposes of this chapter, and, 578
prior to the death of the decedent, the trust became irrevocable 579
while the decedent was domiciled in this state for the purposes 580
of this chapter. 581

(ii) The transfer is made to a trust to which the 582
decedent, prior to the decedent's death, had directly or 583
indirectly transferred assets, net of any related liabilities, 584
while the decedent was domiciled in this state for the purposes 585
of this chapter, and prior to the death of the decedent the 586
trust became irrevocable while the decedent was domiciled in 587
this state for the purposes of this chapter. 588

(iii) The transfer is made on account of a contractual 589
relationship existing directly or indirectly between the 590
transferor and either the decedent or the estate of the decedent 591
at any time prior to the date of the decedent's death, and the 592
decedent was domiciled in this state at the time of death for 593
purposes of the taxes levied under Chapter 5731. of the Revised 594
Code. 595

(iv) The transfer is made to a trust on account of a 596
contractual relationship existing directly or indirectly between 597
the transferor and another person who at the time of the 598
decedent's death was domiciled in this state for purposes of 599
this chapter. 600

(v) The transfer is made to a trust on account of the will 601
of a testator who was domiciled in this state at the time of the 602
testator's death for purposes of the taxes levied under Chapter 603
5731. of the Revised Code. 604

(vi) The transfer is made to a trust created by or caused 605
to be created by a court, and the trust was directly or 606
indirectly created in connection with or as a result of the 607
death of an individual who, for purposes of the taxes levied 608
under Chapter 5731. of the Revised Code, was domiciled in this 609
state at the time of the individual's death. 610

(g) The tax commissioner may adopt rules to ascertain the 611
part of a trust residing in this state. 612

(J) "Nonresident" means an individual or estate that is 613
not a resident. An individual who is a resident for only part of 614
a taxable year is a nonresident for the remainder of that 615
taxable year. 616

(K) "Pass-through entity" has the same meaning as in 617
section 5733.04 of the Revised Code. 618

(L) "Return" means the notifications and reports required 619
to be filed pursuant to this chapter for the purpose of 620
reporting the tax due and includes declarations of estimated tax 621
when so required. 622

(M) "Taxable year" means the calendar year or the 623
taxpayer's fiscal year ending during the calendar year, or 624
fractional part thereof, upon which the adjusted gross income is 625
calculated pursuant to this chapter. 626

(N) "Taxpayer" means any person subject to the tax imposed 627
by section 5747.02 of the Revised Code or any pass-through 628
entity that makes the election under division (D) of section 629
5747.08 of the Revised Code. 630

(O) "Dependents" means dependents as defined in the 631
Internal Revenue Code and as claimed in the taxpayer's federal 632
income tax return for the taxable year or which the taxpayer 633

would have been permitted to claim had the taxpayer filed a 634
federal income tax return. 635

(P) "Principal county of employment" means, in the case of 636
a nonresident, the county within the state in which a taxpayer 637
performs services for an employer or, if those services are 638
performed in more than one county, the county in which the major 639
portion of the services are performed. 640

(Q) As used in sections 5747.50 to 5747.55 of the Revised 641
Code: 642

(1) "Subdivision" means any county, municipal corporation, 643
park district, or township. 644

(2) "Essential local government purposes" includes all 645
functions that any subdivision is required by general law to 646
exercise, including like functions that are exercised under a 647
charter adopted pursuant to the Ohio Constitution. 648

(R) "Overpayment" means any amount already paid that 649
exceeds the figure determined to be the correct amount of the 650
tax. 651

(S) "Taxable income" or "Ohio taxable income" applies only 652
to estates and trusts, and means federal taxable income, as 653
defined and used in the Internal Revenue Code, adjusted as 654
follows: 655

(1) Add interest or dividends, net of ordinary, necessary, 656
and reasonable expenses not deducted in computing federal 657
taxable income, on obligations or securities of any state or of 658
any political subdivision or authority of any state, other than 659
this state and its subdivisions and authorities, but only to the 660
extent that such net amount is not otherwise includible in Ohio 661
taxable income and is described in either division (S)(1)(a) or 662

(b) of this section: 663

(a) The net amount is not attributable to the S portion of 664
an electing small business trust and has not been distributed to 665
beneficiaries for the taxable year; 666

(b) The net amount is attributable to the S portion of an 667
electing small business trust for the taxable year. 668

(2) Add interest or dividends, net of ordinary, necessary, 669
and reasonable expenses not deducted in computing federal 670
taxable income, on obligations of any authority, commission, 671
instrumentality, territory, or possession of the United States 672
to the extent that the interest or dividends are exempt from 673
federal income taxes but not from state income taxes, but only 674
to the extent that such net amount is not otherwise includible 675
in Ohio taxable income and is described in either division (S) 676
(1) (a) or (b) of this section; 677

(3) Add the amount of personal exemption allowed to the 678
estate pursuant to section 642(b) of the Internal Revenue Code; 679

(4) Deduct interest or dividends, net of related expenses 680
deducted in computing federal taxable income, on obligations of 681
the United States and its territories and possessions or of any 682
authority, commission, or instrumentality of the United States 683
to the extent that the interest or dividends are exempt from 684
state taxes under the laws of the United States, but only to the 685
extent that such amount is included in federal taxable income 686
and is described in either division (S) (1) (a) or (b) of this 687
section; 688

(5) Deduct the amount of wages and salaries, if any, not 689
otherwise allowable as a deduction but that would have been 690
allowable as a deduction in computing federal taxable income for 691

the taxable year, had the targeted jobs credit allowed under 692
sections 38, 51, and 52 of the Internal Revenue Code not been in 693
effect, but only to the extent such amount relates either to 694
income included in federal taxable income for the taxable year 695
or to income of the S portion of an electing small business 696
trust for the taxable year; 697

(6) Deduct any interest or interest equivalent, net of 698
related expenses deducted in computing federal taxable income, 699
on public obligations and purchase obligations, but only to the 700
extent that such net amount relates either to income included in 701
federal taxable income for the taxable year or to income of the 702
S portion of an electing small business trust for the taxable 703
year; 704

(7) Add any loss or deduct any gain resulting from sale, 705
exchange, or other disposition of public obligations to the 706
extent that such loss has been deducted or such gain has been 707
included in computing either federal taxable income or income of 708
the S portion of an electing small business trust for the 709
taxable year; 710

(8) Except in the case of the final return of an estate, 711
add any amount deducted by the taxpayer on both its Ohio estate 712
tax return pursuant to section 5731.14 of the Revised Code, and 713
on its federal income tax return in determining federal taxable 714
income; 715

(9) (a) Deduct any amount included in federal taxable 716
income solely because the amount represents a reimbursement or 717
refund of expenses that in a previous year the decedent had 718
deducted as an itemized deduction pursuant to section 63 of the 719
Internal Revenue Code and applicable treasury regulations. The 720
deduction otherwise allowed under division (S) (9) (a) of this 721

section shall be reduced to the extent the reimbursement is 722
attributable to an amount the taxpayer or decedent deducted 723
under this section in any taxable year. 724

(b) Add any amount not otherwise included in Ohio taxable 725
income for any taxable year to the extent that the amount is 726
attributable to the recovery during the taxable year of any 727
amount deducted or excluded in computing federal or Ohio taxable 728
income in any taxable year, but only to the extent such amount 729
has not been distributed to beneficiaries for the taxable year. 730

(10) Deduct any portion of the deduction described in 731
section 1341(a)(2) of the Internal Revenue Code, for repaying 732
previously reported income received under a claim of right, that 733
meets both of the following requirements: 734

(a) It is allowable for repayment of an item that was 735
included in the taxpayer's taxable income or the decedent's 736
adjusted gross income for a prior taxable year and did not 737
qualify for a credit under division (A) or (B) of section 738
5747.05 of the Revised Code for that year. 739

(b) It does not otherwise reduce the taxpayer's taxable 740
income or the decedent's adjusted gross income for the current 741
or any other taxable year. 742

(11) Add any amount claimed as a credit under section 743
5747.059 or 5747.65 of the Revised Code to the extent that the 744
amount satisfies either of the following: 745

(a) The amount was deducted or excluded from the 746
computation of the taxpayer's federal taxable income as required 747
to be reported for the taxpayer's taxable year under the 748
Internal Revenue Code; 749

(b) The amount resulted in a reduction in the taxpayer's 750

federal taxable income as required to be reported for any of the 751
taxpayer's taxable years under the Internal Revenue Code. 752

(12) Deduct any amount, net of related expenses deducted 753
in computing federal taxable income, that a trust is required to 754
report as farm income on its federal income tax return, but only 755
if the assets of the trust include at least ten acres of land 756
satisfying the definition of "land devoted exclusively to 757
agricultural use" under section 5713.30 of the Revised Code, 758
regardless of whether the land is valued for tax purposes as 759
such land under sections 5713.30 to 5713.38 of the Revised Code. 760
If the trust is a pass-through entity investor, section 5747.231 761
of the Revised Code applies in ascertaining if the trust is 762
eligible to claim the deduction provided by division (S)(12) of 763
this section in connection with the pass-through entity's farm 764
income. 765

Except for farm income attributable to the S portion of an 766
electing small business trust, the deduction provided by 767
division (S)(12) of this section is allowed only to the extent 768
that the trust has not distributed such farm income. Division 769
(S)(12) of this section applies only to taxable years of a trust 770
beginning in 2002 or thereafter. 771

(13) Add the net amount of income described in section 772
641(c) of the Internal Revenue Code to the extent that amount is 773
not included in federal taxable income. 774

(14) Add or deduct the amount the taxpayer would be 775
required to add or deduct under division (A)(20) or (21) of this 776
section if the taxpayer's Ohio taxable income were computed in 777
the same manner as an individual's Ohio adjusted gross income is 778
computed under this section. In the case of a trust, division 779
(S)(14) of this section applies only to any of the trust's 780

taxable years beginning in 2002 or thereafter. 781

(T) "School district income" and "school district income 782
tax" have the same meanings as in section 5748.01 of the Revised 783
Code. 784

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S) 785
(7) of this section, "public obligations," "purchase 786
obligations," and "interest or interest equivalent" have the 787
same meanings as in section 5709.76 of the Revised Code. 788

(V) "Limited liability company" means any limited 789
liability company formed under Chapter 1705. of the Revised Code 790
or under the laws of any other state. 791

(W) "Pass-through entity investor" means any person who, 792
during any portion of a taxable year of a pass-through entity, 793
is a partner, member, shareholder, or equity investor in that 794
pass-through entity. 795

(X) "Banking day" has the same meaning as in section 796
1304.01 of the Revised Code. 797

(Y) "Month" means a calendar month. 798

(Z) "Quarter" means the first three months, the second 799
three months, the third three months, or the last three months 800
of the taxpayer's taxable year. 801

(AA)(1) "Eligible institution" means a state university or 802
state institution of higher education as defined in section 803
3345.011 of the Revised Code, or a private, nonprofit college, 804
university, or other post-secondary institution located in this 805
state that possesses a certificate of authorization issued by 806
the chancellor of higher education pursuant to Chapter 1713. of 807
the Revised Code or a certificate of registration issued by the 808

state board of career colleges and schools under Chapter 3332. 809
of the Revised Code. 810

(2) "Qualified tuition and fees" means tuition and fees 811
imposed by an eligible institution as a condition of enrollment 812
or attendance, not exceeding two thousand five hundred dollars 813
in each of the individual's first two years of post-secondary 814
education. If the individual is a part-time student, "qualified 815
tuition and fees" includes tuition and fees paid for the 816
academic equivalent of the first two years of post-secondary 817
education during a maximum of five taxable years, not exceeding 818
a total of five thousand dollars. "Qualified tuition and fees" 819
does not include: 820

(a) Expenses for any course or activity involving sports, 821
games, or hobbies unless the course or activity is part of the 822
individual's degree or diploma program; 823

(b) The cost of books, room and board, student activity 824
fees, athletic fees, insurance expenses, or other expenses 825
unrelated to the individual's academic course of instruction; 826

(c) Tuition, fees, or other expenses paid or reimbursed 827
through an employer, scholarship, grant in aid, or other 828
educational benefit program. 829

(BB) (1) "Modified business income" means the business 830
income included in a trust's Ohio taxable income after such 831
taxable income is first reduced by the qualifying trust amount, 832
if any. 833

(2) "Qualifying trust amount" of a trust means capital 834
gains and losses from the sale, exchange, or other disposition 835
of equity or ownership interests in, or debt obligations of, a 836
qualifying investee to the extent included in the trust's Ohio 837

taxable income, but only if the following requirements are 838
satisfied: 839

(a) The book value of the qualifying investee's physical 840
assets in this state and everywhere, as of the last day of the 841
qualifying investee's fiscal or calendar year ending immediately 842
prior to the date on which the trust recognizes the gain or 843
loss, is available to the trust. 844

(b) The requirements of section 5747.011 of the Revised 845
Code are satisfied for the trust's taxable year in which the 846
trust recognizes the gain or loss. 847

Any gain or loss that is not a qualifying trust amount is 848
modified business income, qualifying investment income, or 849
modified nonbusiness income, as the case may be. 850

(3) "Modified nonbusiness income" means a trust's Ohio 851
taxable income other than modified business income, other than 852
the qualifying trust amount, and other than qualifying 853
investment income, as defined in section 5747.012 of the Revised 854
Code, to the extent such qualifying investment income is not 855
otherwise part of modified business income. 856

(4) "Modified Ohio taxable income" applies only to trusts, 857
and means the sum of the amounts described in divisions (BB) (4) 858
(a) to (c) of this section: 859

(a) The fraction, calculated under section 5747.013, and 860
applying section 5747.231 of the Revised Code, multiplied by the 861
sum of the following amounts: 862

(i) The trust's modified business income; 863

(ii) The trust's qualifying investment income, as defined 864
in section 5747.012 of the Revised Code, but only to the extent 865

the qualifying investment income does not otherwise constitute 866
modified business income and does not otherwise constitute a 867
qualifying trust amount. 868

(b) The qualifying trust amount multiplied by a fraction, 869
the numerator of which is the sum of the book value of the 870
qualifying investee's physical assets in this state on the last 871
day of the qualifying investee's fiscal or calendar year ending 872
immediately prior to the day on which the trust recognizes the 873
qualifying trust amount, and the denominator of which is the sum 874
of the book value of the qualifying investee's total physical 875
assets everywhere on the last day of the qualifying investee's 876
fiscal or calendar year ending immediately prior to the day on 877
which the trust recognizes the qualifying trust amount. If, for 878
a taxable year, the trust recognizes a qualifying trust amount 879
with respect to more than one qualifying investee, the amount 880
described in division (BB) (4) (b) of this section shall equal the 881
sum of the products so computed for each such qualifying 882
investee. 883

(c) (i) With respect to a trust or portion of a trust that 884
is a resident as ascertained in accordance with division (I) (3) 885
(d) of this section, its modified nonbusiness income. 886

(ii) With respect to a trust or portion of a trust that is 887
not a resident as ascertained in accordance with division (I) (3) 888
(d) of this section, the amount of its modified nonbusiness 889
income satisfying the descriptions in divisions (B) (2) to (5) of 890
section 5747.20 of the Revised Code, except as otherwise 891
provided in division (BB) (4) (c) (ii) of this section. With 892
respect to a trust or portion of a trust that is not a resident 893
as ascertained in accordance with division (I) (3) (d) of this 894
section, the trust's portion of modified nonbusiness income 895

recognized from the sale, exchange, or other disposition of a 896
debt interest in or equity interest in a section 5747.212 897
entity, as defined in section 5747.212 of the Revised Code, 898
without regard to division (A) of that section, shall not be 899
allocated to this state in accordance with section 5747.20 of 900
the Revised Code but shall be apportioned to this state in 901
accordance with division (B) of section 5747.212 of the Revised 902
Code without regard to division (A) of that section. 903

If the allocation and apportionment of a trust's income 904
under divisions (BB) (4) (a) and (c) of this section do not fairly 905
represent the modified Ohio taxable income of the trust in this 906
state, the alternative methods described in division (C) of 907
section 5747.21 of the Revised Code may be applied in the manner 908
and to the same extent provided in that section. 909

(5) (a) Except as set forth in division (BB) (5) (b) of this 910
section, "qualifying investee" means a person in which a trust 911
has an equity or ownership interest, or a person or unit of 912
government the debt obligations of either of which are owned by 913
a trust. For the purposes of division (BB) (2) (a) of this section 914
and for the purpose of computing the fraction described in 915
division (BB) (4) (b) of this section, all of the following apply: 916

(i) If the qualifying investee is a member of a qualifying 917
controlled group on the last day of the qualifying investee's 918
fiscal or calendar year ending immediately prior to the date on 919
which the trust recognizes the gain or loss, then "qualifying 920
investee" includes all persons in the qualifying controlled 921
group on such last day. 922

(ii) If the qualifying investee, or if the qualifying 923
investee and any members of the qualifying controlled group of 924
which the qualifying investee is a member on the last day of the 925

qualifying investee's fiscal or calendar year ending immediately 926
prior to the date on which the trust recognizes the gain or 927
loss, separately or cumulatively own, directly or indirectly, on 928
the last day of the qualifying investee's fiscal or calendar 929
year ending immediately prior to the date on which the trust 930
recognizes the qualifying trust amount, more than fifty per cent 931
of the equity of a pass-through entity, then the qualifying 932
investee and the other members are deemed to own the 933
proportionate share of the pass-through entity's physical assets 934
which the pass-through entity directly or indirectly owns on the 935
last day of the pass-through entity's calendar or fiscal year 936
ending within or with the last day of the qualifying investee's 937
fiscal or calendar year ending immediately prior to the date on 938
which the trust recognizes the qualifying trust amount. 939

(iii) For the purposes of division (BB) (5) (a) (iii) of this 940
section, "upper level pass-through entity" means a pass-through 941
entity directly or indirectly owning any equity of another pass- 942
through entity, and "lower level pass-through entity" means that 943
other pass-through entity. 944

An upper level pass-through entity, whether or not it is 945
also a qualifying investee, is deemed to own, on the last day of 946
the upper level pass-through entity's calendar or fiscal year, 947
the proportionate share of the lower level pass-through entity's 948
physical assets that the lower level pass-through entity 949
directly or indirectly owns on the last day of the lower level 950
pass-through entity's calendar or fiscal year ending within or 951
with the last day of the upper level pass-through entity's 952
fiscal or calendar year. If the upper level pass-through entity 953
directly and indirectly owns less than fifty per cent of the 954
equity of the lower level pass-through entity on each day of the 955
upper level pass-through entity's calendar or fiscal year in 956

which or with which ends the calendar or fiscal year of the 957
lower level pass-through entity and if, based upon clear and 958
convincing evidence, complete information about the location and 959
cost of the physical assets of the lower pass-through entity is 960
not available to the upper level pass-through entity, then 961
solely for purposes of ascertaining if a gain or loss 962
constitutes a qualifying trust amount, the upper level pass- 963
through entity shall be deemed as owning no equity of the lower 964
level pass-through entity for each day during the upper level 965
pass-through entity's calendar or fiscal year in which or with 966
which ends the lower level pass-through entity's calendar or 967
fiscal year. Nothing in division (BB) (5) (a) (iii) of this section 968
shall be construed to provide for any deduction or exclusion in 969
computing any trust's Ohio taxable income. 970

(b) With respect to a trust that is not a resident for the 971
taxable year and with respect to a part of a trust that is not a 972
resident for the taxable year, "qualifying investee" for that 973
taxable year does not include a C corporation if both of the 974
following apply: 975

(i) During the taxable year the trust or part of the trust 976
recognizes a gain or loss from the sale, exchange, or other 977
disposition of equity or ownership interests in, or debt 978
obligations of, the C corporation. 979

(ii) Such gain or loss constitutes nonbusiness income. 980

(6) "Available" means information is such that a person is 981
able to learn of the information by the due date plus 982
extensions, if any, for filing the return for the taxable year 983
in which the trust recognizes the gain or loss. 984

(CC) "Qualifying controlled group" has the same meaning as 985

in section 5733.04 of the Revised Code. 986

(DD) "Related member" has the same meaning as in section 987
5733.042 of the Revised Code. 988

(EE) (1) For the purposes of division (EE) of this section: 989

(a) "Qualifying person" means any person other than a 990
qualifying corporation. 991

(b) "Qualifying corporation" means any person classified 992
for federal income tax purposes as an association taxable as a 993
corporation, except either of the following: 994

(i) A corporation that has made an election under 995
subchapter S, chapter one, subtitle A, of the Internal Revenue 996
Code for its taxable year ending within, or on the last day of, 997
the investor's taxable year; 998

(ii) A subsidiary that is wholly owned by any corporation 999
that has made an election under subchapter S, chapter one, 1000
subtitle A of the Internal Revenue Code for its taxable year 1001
ending within, or on the last day of, the investor's taxable 1002
year. 1003

(2) For the purposes of this chapter, unless expressly 1004
stated otherwise, no qualifying person indirectly owns any asset 1005
directly or indirectly owned by any qualifying corporation. 1006

(FF) For purposes of this chapter and Chapter 5751. of the 1007
Revised Code: 1008

(1) "Trust" does not include a qualified pre-income tax 1009
trust. 1010

(2) A "qualified pre-income tax trust" is any pre-income 1011
tax trust that makes a qualifying pre-income tax trust election 1012

as described in division (FF) (3) of this section. 1013

(3) A "qualifying pre-income tax trust election" is an 1014
election by a pre-income tax trust to subject to the tax imposed 1015
by section 5751.02 of the Revised Code the pre-income tax trust 1016
and all pass-through entities of which the trust owns or 1017
controls, directly, indirectly, or constructively through 1018
related interests, five per cent or more of the ownership or 1019
equity interests. The trustee shall notify the tax commissioner 1020
in writing of the election on or before April 15, 2006. The 1021
election, if timely made, shall be effective on and after 1022
January 1, 2006, and shall apply for all tax periods and tax 1023
years until revoked by the trustee of the trust. 1024

(4) A "pre-income tax trust" is a trust that satisfies all 1025
of the following requirements: 1026

(a) The document or instrument creating the trust was 1027
executed by the grantor before January 1, 1972; 1028

(b) The trust became irrevocable upon the creation of the 1029
trust; and 1030

(c) The grantor was domiciled in this state at the time 1031
the trust was created. 1032

(GG) "Uniformed services" has the same meaning as in 10 1033
U.S.C. 101. 1034

(HH) "Taxable business income" means the amount by which 1035
an individual's business income that is included in federal 1036
adjusted gross income exceeds the amount of business income the 1037
individual is authorized to deduct under division (A) (31) of 1038
this section for the taxable year. 1039

Sec. 5747.82. (A) As used in this section: 1040

(1) "Higher education expenses" means all of the following 1041
expenses incurred by a taxpayer while enrolled in an eligible 1042
educational institution: 1043

(a) Tuition, fees, books, supplies, and equipment required 1044
for the enrollment or attendance of the taxpayer at the eligible 1045
education institution; 1046

(b) Room and board expenses incurred while the taxpayer is 1047
carrying at least one-half of the normal full-time academic 1048
workload for the course of study the taxpayer is pursuing, as 1049
determined by the eligible educational institution, to the 1050
extent that the expenses for an academic period do not exceed 1051
the greater of the following: 1052

(i) The allowance for room and board determined by the 1053
eligible educational institution for federal financial aid 1054
purposes for that academic period; 1055

(ii) If the taxpayer lives in a residence that is owned or 1056
operated by or located on the campus of the eligible educational 1057
institution, the amount actually charged to the taxpayer for 1058
room and board for that academic period. 1059

(c) Expenses for special needs services required by the 1060
taxpayer in connection with the taxpayer's enrollment or 1061
attendance at the eligible educational institution. 1062

(2) "Eligible educational institution" has the same 1063
meaning as in section 529 of the Internal Revenue Code. 1064

(3) (a) "Qualified higher education expenses" means the 1065
total amount of higher education expenses paid by a taxpayer 1066
toward the completion of a qualifying credential program, 1067
excluding the following: 1068

(i) The amount of such expenses paid on behalf of the 1069
taxpayer in the form of grants, scholarships, gifts, or 1070
bequests; 1071

(ii) The amount of any tuition units or payments applied 1072
toward such expenses under a qualified tuition program 1073
established under section 529 of the Internal Revenue Code. 1074

(b) "Qualified higher education expenses" shall be reduced 1075
by the following amounts, as applicable: 1076

(i) The amount of any reduction in federal income tax 1077
resulting from a federal deduction or credit claimed by the 1078
taxpayer on the basis of such expenses; 1079

(ii) For a taxpayer that obtained a qualifying credential 1080
during a taxable year ending before the effective date, an 1081
amount equal to the product of two thousand dollars multiplied 1082
by the number of the taxpayer's taxable years between and 1083
including the taxable year during which the taxpayer obtained 1084
that credential and the taxable year that includes the effective 1085
date, excluding any taxable year within that span that includes 1086
a date on which the individual is enrolled full-time in an 1087
eligible educational institution to pursue a qualifying 1088
credential. 1089

(4) "Annual contribution limit" means the limit prescribed 1090
in section 5747.70 of the Revised Code on the dollar amount of 1091
contributions and purchases that a taxpayer, or a taxpayer and 1092
the taxpayer's spouse, may deduct during a taxable year under 1093
that section with respect to each beneficiary for whom 1094
contributions or purchases are made. 1095

(5) "Qualifying credential" means a technical 1096
certification; an associate, technical, baccalaureate, master's, 1097

or professional degree; or another post-secondary credential 1098
obtained from an eligible educational institution. 1099

(6) "Effective date" means the effective date of the 1100
enactment of this section. 1101

(B) An individual who obtains a qualifying credential 1102
before, on, or after the effective date may deduct from the 1103
individual's federal adjusted gross income for a taxable year 1104
the lesser of the annual contribution limit or the qualified 1105
higher education expenses paid by the taxpayer toward the 1106
completion of that credential to the extent that such expenses 1107
are not otherwise deducted or excluded in computing Ohio 1108
adjusted gross income for the taxable year and not otherwise 1109
deducted by the taxpayer under this section and division (A) (33) 1110
of section 5747.01 of the Revised Code in computing Ohio 1111
adjusted gross income for a prior taxable year. The taxpayer may 1112
make the deduction beginning with one of the following taxable 1113
years, as applicable, and for each ensuing taxable year: 1114

(1) For a qualifying credential obtained during a taxable 1115
year ending before the effective date, the taxable year that 1116
includes the effective date; 1117

(2) For a qualifying credential obtained during any other 1118
taxable year, the taxable year immediately following the taxable 1119
year in which the taxpayer obtained the credential. 1120

The aggregate amount a taxpayer deducts under this section 1121
and division (A) (33) of section 5747.01 of the Revised Code for 1122
all taxable years shall not exceed the total amount of those 1123
qualified higher education expenses. 1124

(C) An individual who is allowed a deduction under this 1125
section and division (A) (33) of section 5747.01 of the Revised 1126

Code may elect to defer the deduction for each taxable year that 1127
includes a date on which the individual is enrolled full-time in 1128
an eligible educational institution to pursue a qualifying 1129
credential. Evidence of such enrollment shall be retained for 1130
inspection by the tax commissioner until the expiration of four 1131
years after the end of the last taxable year the deduction is 1132
made. 1133

(D) An individual who is allowed a deduction under this 1134
section and division (A) (33) of section 5747.01 of the Revised 1135
Code shall retain evidence of having obtained a qualifying 1136
credential for inspection by the tax commissioner until the 1137
expiration of four years after the end of the last taxable year 1138
the deduction is made. 1139

An individual who is allowed a deduction under this 1140
section and division (A) (33) of section 5747.01 of the Revised 1141
Code on the basis of a qualifying credential obtained during a 1142
taxable year ending before the effective date and whose 1143
reduction under division (A) (3) (b) (ii) of this section is 1144
limited because the individual is enrolled full-time in an 1145
eligible educational institution to pursue a more advanced 1146
qualifying credential shall retain evidence of such enrollment 1147
for inspection by the tax commissioner until the expiration of 1148
four years after the end of the last taxable year the deduction 1149
is made. 1150

Any amount deducted pursuant to this section shall be 1151
included in Ohio adjusted gross income for the purpose of 1152
determining eligibility for the credit allowed under section 1153
5747.056 of the Revised Code. 1154

Section 2. That existing section 5747.01 of the Revised 1155
Code is hereby repealed. 1156