

As Introduced

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H. B. No. 186

Representatives Swearingen, Wilkin

**Cosponsors: Representatives LaRe, Riedel, Seitz, Click, Carfagna, Gross,
Edwards, Cross, Hillyer, Kelly, Weinstein, Ingram, Carruthers**

A BILL

To amend sections 5747.01 and 5747.10 and to enact 1
sections 193.01, 193.02, 193.03, 193.04, 193.05, 2
193.06, and 193.07 of the Revised Code to enact 3
the First-time Home Buyer Savings Act, 4
authorizing income tax deductions for 5
contributions to and earnings on savings 6
accounts designated for the purchase of a home. 7

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

Section 1. That sections 5747.01 and 5747.10 be amended 8
and sections 193.01, 193.02, 193.03, 193.04, 193.05, 193.06, and 9
193.07 of the Revised Code be enacted to read as follows: 10

Sec. 193.01. As used in this chapter: 11

(A) "Account holder" means an individual who establishes, 12
individually or jointly with the individual's spouse, a first- 13
time home buyer savings account. 14

(B) "Allowable closing costs" means a disbursement listed 15
on a closing disclosure for the purchase of a single-family 16
residence in this state by a qualified beneficiary. 17

(C) "Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in this state by a qualified beneficiary. 18
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(D) "Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in this state. 21
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(E) "First-time home buyer" means an individual who resides in this state and has not owned or purchased, either individually or jointly, a single-family residence during the three years immediately preceding the purchase of a single-family residence using amounts from a first-time home buyer savings account. 26
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(F) "First-time home buyer savings account" or "account" means an account at a financial institution that is designated by the account holder as a first-time home buyer savings account pursuant to this chapter for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence in this state by a qualified beneficiary. 32
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(G) "Qualified beneficiary" means a first-time home buyer who is designated by the account holder of a first-time home buyer savings account. 38
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(H) "Closing disclosure" means the statement of receipts and disbursement for a transaction related to real estate, including a statement prescribed under the "Real Estate Settlement Procedures Act of 1974," 12 U.S.C. 2601 et seq., as amended, and regulations thereunder. 41
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(I) "Single-family residence" means a dwelling, including 46

a unit in a multiple-unit dwelling and a manufactured home or 47
mobile home, owned and occupied by a qualified beneficiary as a 48
principal residence. A single-family residence includes so much 49
of the land surrounding it as is reasonably necessary for the 50
use of the dwelling or unit as a home. 51

(J) "Manufactured home" has the same meaning as in section 52
3781.06 of the Revised Code. 53

(K) "Mobile home" has the same meaning as in section 54
4501.01 of the Revised Code. 55

(L) "Active duty" and "uniformed services" have the same 56
meanings as in section 5906.01 of the Revised Code. 57

Sec. 193.02. (A) Any individual may open an account at a 58
financial institution and designate the account, in its 59
entirety, as a first-time home buyer savings account to be used 60
to pay or reimburse a qualified beneficiary's eligible costs for 61
the purchase of a single-family residence in this state. 62
Individuals who are married may jointly open, designate, and own 63
a first-time home buyer savings account but, otherwise, a first- 64
time home buyer savings account shall be owned by not more than 65
one account holder. 66

(B) An account holder shall designate one first-time home 67
buyer as the qualified beneficiary of the first-time home buyer 68
savings account not later than the fifteenth day of April of the 69
year following the year in which the account is opened. Account 70
holders may designate themselves as the qualified beneficiary 71
and may change the designated qualified beneficiary at any time. 72

(C) A first-time home buyer savings account shall not have 73
more than one qualified beneficiary at any time. 74

(D) An individual may be the account holder of more than 75

one first-time home buyer savings account. However, an account 76
holder shall not designate the same qualified beneficiary for 77
more than one account. 78

(E) An individual may be designated as the qualified 79
beneficiary on more than one first-time home buyer savings 80
account only if the accounts are owned by different account 81
holders. 82

(F) Only cash and marketable securities may be deposited 83
to a first-time home buyer savings account. 84

(G) Any person may deposit money in a first-time home 85
buyer savings account. There is no limitation on the amount of 86
money that may be deposited to or retained in a first-time home 87
buyer savings account. Only deposits made by an account holder 88
qualify for the income tax deduction authorized under section 89
193.05 of the Revised Code. 90

Sec. 193.03. (A) For each taxable year that an account 91
holder claims a deduction or is required to make an addition to 92
the account holder's federal adjusted gross income under section 93
193.05 of the Revised Code, the account holder shall include the 94
following information with the account holder's state income tax 95
return filed pursuant to section 5747.08 of the Revised Code in 96
the manner prescribed by the tax commissioner: 97

(1) A ledger listing the deposits to and withdrawals from 98
each first-time home buyer savings account owned by the account 99
holder during the taxable year, including debits for service 100
fees associated with administering the account; 101

(2) The internal revenue service form 1099 issued pursuant 102
to the Internal Revenue Code by the financial institution or 103
financial institutions with which the account or accounts are 104

<u>held.</u>	105
<u>(B) In addition to the reporting requirements of division</u>	106
<u>(A) of this section, each time money is withdrawn from a first-</u>	107
<u>time home buyer savings account for purposes other than</u>	108
<u>reimbursing the financial institution with which the account is</u>	109
<u>held for a service fee associated with administering the</u>	110
<u>account, the account holder shall provide the following</u>	111
<u>information to the department of taxation:</u>	112
<u>(1) The amount of money withdrawn from the account;</u>	113
<u>(2) The amount of money remaining in the account, if any;</u>	114
<u>(3) If the withdrawn money was used to pay eligible costs</u>	115
<u>for the purchase of a single-family residence by the account's</u>	116
<u>qualified beneficiary or to reimburse the qualified beneficiary</u>	117
<u>for such eligible costs, a detailed accounting of the eligible</u>	118
<u>costs toward which the money was applied;</u>	119
<u>(4) If the money was transferred to another first-time</u>	120
<u>home buyer savings account, the name of the financial</u>	121
<u>institution with which the new account is held and the qualified</u>	122
<u>beneficiary of the new account;</u>	123
<u>(5) If the money was withdrawn due to the death or</u>	124
<u>disability of the account holder, the name and address of each</u>	125
<u>person to which the money was distributed.</u>	126
<u>(C) In complying with the reporting obligations prescribed</u>	127
<u>by this section, the account holder shall use the forms</u>	128
<u>prescribed by the tax commissioner pursuant to section 193.07 of</u>	129
<u>the Revised Code.</u>	130
<u>Sec. 193.04.</u> (A) A financial institution shall not be	131
<u>required to do any of the following:</u>	132

<u>(1) Designate an account as a first-time home buyer</u>	133
<u>savings account, or designate the qualified beneficiary of an</u>	134
<u>account, in the financial institution's account contracts or</u>	135
<u>systems or in any other way;</u>	136
<u>(2) Track the use of money withdrawn from a first-time</u>	137
<u>home buyer savings account;</u>	138
<u>(3) Allocate funds in a first-time home buyer savings</u>	139
<u>account among joint account holder or multiple qualified</u>	140
<u>beneficiaries;</u>	141
<u>(4) Report any information not otherwise required by law</u>	142
<u>to the department of taxation or any other governmental agency.</u>	143
<u>(B) A financial institution is not responsible or liable</u>	144
<u>for any of the following:</u>	145
<u>(1) Determining or ensuring that an account satisfies the</u>	146
<u>requirements to be a first-time home buyer savings account;</u>	147
<u>(2) Determining or ensuring that funds in a first-time</u>	148
<u>home buyer savings account are used for eligible costs;</u>	149
<u>(3) Reporting or remitting taxes or penalties related to</u>	150
<u>the use of a first-time home buyer savings account.</u>	151
<u>(C) Upon being furnished proof of the death of the account</u>	152
<u>holder and such other information required by the contract</u>	153
<u>governing the first-time home buyer savings account, a financial</u>	154
<u>institution shall distribute the principal and accumulated</u>	155
<u>interest or other income in the account in accordance with the</u>	156
<u>terms of the contract governing the account.</u>	157
Sec. 193.05. <u>(A) Subject to the limitations prescribed by</u>	158
<u>division (C) of this section, in determining Ohio adjusted gross</u>	159
<u>income under Chapter 5747. of the Revised Code an account holder</u>	160

may deduct the following amounts, to the extent such amounts 161
have not otherwise been deducted or excluded in determining the 162
account holder's federal adjusted gross income: 163

(1) The total of the deposits that the account holder made 164
to one or more first-time home buyer savings accounts owned by 165
the account holder or the account holder's spouse during the 166
taxable year; 167

(2) The interest and other income on the principal balance 168
of each of the account holder's first-time home buyer savings 169
accounts. 170

(B) In determining Ohio adjusted gross income under 171
Chapter 5747. of the Revised Code, an account holder shall add 172
to the account holder's federal adjusted gross income an amount 173
equal to the sum of the amounts described in divisions (B) (1), 174
(2), and (3) of this section to the extent that such amounts 175
were included in the account holder's federal adjusted gross 176
income in a prior taxable year and were deducted in determining 177
the account holder's Ohio adjusted gross income for that taxable 178
year. In determining the extent to which such amounts shall be 179
included in the account holder's Ohio adjusted gross income, the 180
tax commissioner shall be guided by sections 72 and 408 of the 181
Internal Revenue Code governing the determination of the amount 182
of withdrawals from an individual retirement account to be 183
included in federal adjusted gross income. 184

(1) Amounts withdrawn from a first-time home buyer savings 185
account owned by the account holder that are not transferred to 186
another first-time home buyer savings account, debited by the 187
financial institution with which the account is held to pay a 188
service fee for administering the account, or used to pay 189
eligible costs for the purchase of a single-family residence by 190

a qualified beneficiary or to reimburse a qualified beneficiary 191
for such eligible costs; 192

(2) Investment earnings during the taxable year on amounts 193
withdrawn from the account that are described in division (B)(1) 194
of this section; 195

(3) Amounts remaining in the account on the thirty-first 196
day of December of the fourteenth taxable year following the 197
taxable year in which the account was opened. For the purposes 198
of division (B)(3) of this section, a first-time home buyer 199
savings account is "opened" in the taxable year in which the 200
account was established under section 193.02 of the Revised Code 201
or, if the account includes amounts transferred from other 202
first-time home buyer savings accounts, in the earliest taxable 203
year for which the account holder claimed a deduction under 204
division (A) of this section with respect to the first such 205
account. Changing the qualified beneficiary of the account does 206
not affect the taxable year in which the account is opened. 207

(C)(1) The total amount of deposits deducted by an account 208
holder under division (A)(1) of this section for a taxable year, 209
regardless of how many first-time home buyer savings accounts 210
the account holder owns, shall not exceed ten thousand dollars 211
for spouses filing a joint income tax return under section 212
5747.08 of the Revised Code, or five thousand dollars for all 213
other account holders. 214

(2) The total amount of deposits, interest, and other 215
income deducted by an account holder under divisions (A)(1) and 216
(2) of this section for all taxable years, regardless of how 217
many first-time home buyer savings accounts the account holder 218
owns, shall not exceed one hundred thousand dollars for spouses 219
filing a joint income tax return under section 5747.08 of the 220

Revised Code or fifty thousand dollars for all other account 221
holders. 222

(3) No account holder may claim a deduction under division 223
(A) of this section after the fourteenth taxable year following 224
the taxable year in which the account holder first opens a 225
first-time home buyer savings account under section 193.02 of 226
the Revised Code. 227

(D) A person other than the account holder who deposits 228
money in a first-time home buyer savings account is not entitled 229
to a deduction under this section. 230

Sec. 193.06. (A) Except as otherwise provided in division 231
(B) of this section, an account holder shall pay a penalty equal 232
to ten per cent of the amounts described in divisions (B) (1) and 233
(3) of section 193.05 of the Revised Code for the taxable year 234
in which the account holder is required to add the amounts in 235
computing the account holder's Ohio adjusted gross income under 236
Chapter 5747. of the Revised Code. The penalty imposed under 237
this section shall be in addition to all other taxes and 238
penalties imposed on the amounts. The penalty shall be 239
considered as revenue arising from the taxes imposed by Chapter 240
5747. of the Revised Code and the tax commissioner may collect 241
past due penalties and interest thereon by assessment under 242
section 5747.13 of the Revised Code in the same manner as taxes 243
that are past due. 244

(B) The penalty imposed under this section does not apply 245
to any of the following: 246

(1) Amounts withdrawn by reason of the account holder's 247
death or disability; 248

(2) A disbursement of assets of the account pursuant to a 249

filing for protection under the United States Bankruptcy Code, 250
11 U.S.C. 101, et seq., more than one year after the date the 251
account was established under section 193.02 of the Revised Code 252
or, if the account includes amounts transferred from other 253
first-time home buyer savings accounts, more than one year after 254
the earliest date that a first-time home buyer savings account 255
from which the funds were transferred was established; 256

(3) Amounts transferred from one first-time home buyer 257
savings account to another first-time home buyers savings 258
account; 259

(4) Amounts debited from the account by the financial 260
institution with which the account is held to pay a service fee 261
for administering the account; 262

(5) Amounts withdrawn by an account holder who is a member 263
of the uniformed services within one year of either of the 264
following: 265

(a) The account holder is transferred or called into an 266
active duty assignment outside this state; 267

(b) The account holder's active duty assignment in this 268
state terminates or relocates outside this state. 269

Sec. 193.07. (A) The tax commissioner may adopt rules in 270
accordance with Chapter 119. of the Revised Code to implement 271
this chapter. 272

(B) The commissioner shall prepare forms for all of the 273
following: 274

(1) The designation of an account with a financial 275
institution to serve as a first-time home buyer savings account; 276

(2) The designation of a qualified beneficiary of a first- 277

<u>time home buyer savings account;</u>	278
<u>(3) For an account holder to annually submit to the</u>	279
<u>department detailed information regarding the first-time home</u>	280
<u>buyer savings account, including a list of transactions for the</u>	281
<u>account during a taxable year, and identifying any supporting</u>	282
<u>documentation that is required to be maintained by the account</u>	283
<u>holder.</u>	284
<u>(C) The department of taxation shall prepare and</u>	285
<u>distribute informational materials on the first-time home buyer</u>	286
<u>savings account program to financial institutions and potential</u>	287
<u>home buyers to publicize the availability of the program.</u>	288
Sec. 5747.01. Except as otherwise expressly provided or	289
clearly appearing from the context, any term used in this	290
chapter that is not otherwise defined in this section has the	291
same meaning as when used in a comparable context in the laws of	292
the United States relating to federal income taxes or if not	293
used in a comparable context in those laws, has the same meaning	294
as in section 5733.40 of the Revised Code. Any reference in this	295
chapter to the Internal Revenue Code includes other laws of the	296
United States relating to federal income taxes.	297
As used in this chapter:	298
(A) "Adjusted gross income" or "Ohio adjusted gross	299
income" means federal adjusted gross income, as defined and used	300
in the Internal Revenue Code, adjusted as provided in this	301
section:	302
(1) Add interest or dividends on obligations or securities	303
of any state or of any political subdivision or authority of any	304
state, other than this state and its subdivisions and	305
authorities.	306

(2) Add interest or dividends on obligations of any	307
authority, commission, instrumentality, territory, or possession	308
of the United States to the extent that the interest or	309
dividends are exempt from federal income taxes but not from	310
state income taxes.	311
(3) Deduct interest or dividends on obligations of the	312
United States and its territories and possessions or of any	313
authority, commission, or instrumentality of the United States	314
to the extent that the interest or dividends are included in	315
federal adjusted gross income but exempt from state income taxes	316
under the laws of the United States.	317
(4) Deduct disability and survivor's benefits to the	318
extent included in federal adjusted gross income.	319
(5) Deduct benefits under Title II of the Social Security	320
Act and tier 1 railroad retirement benefits to the extent	321
included in federal adjusted gross income under section 86 of	322
the Internal Revenue Code.	323
(6) Deduct the amount of wages and salaries, if any, not	324
otherwise allowable as a deduction but that would have been	325
allowable as a deduction in computing federal adjusted gross	326
income for the taxable year, had the targeted jobs credit	327
allowed and determined under sections 38, 51, and 52 of the	328
Internal Revenue Code not been in effect.	329
(7) Deduct any interest or interest equivalent on public	330
obligations and purchase obligations to the extent that the	331
interest or interest equivalent is included in federal adjusted	332
gross income.	333
(8) Add any loss or deduct any gain resulting from the	334
sale, exchange, or other disposition of public obligations to	335

the extent that the loss has been deducted or the gain has been 336
included in computing federal adjusted gross income. 337

(9) Deduct or add amounts, as provided under section 338
5747.70 of the Revised Code, related to contributions to 339
variable college savings program accounts made or tuition units 340
purchased pursuant to Chapter 3334. of the Revised Code. 341

(10) (a) Deduct, to the extent not otherwise allowable as a 342
deduction or exclusion in computing federal or Ohio adjusted 343
gross income for the taxable year, the amount the taxpayer paid 344
during the taxable year for medical care insurance and qualified 345
long-term care insurance for the taxpayer, the taxpayer's 346
spouse, and dependents. No deduction for medical care insurance 347
under division (A) (10) (a) of this section shall be allowed 348
either to any taxpayer who is eligible to participate in any 349
subsidized health plan maintained by any employer of the 350
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 351
entitled to, or on application would be entitled to, benefits 352
under part A of Title XVIII of the "Social Security Act," 49 353
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 354
division (A) (10) (a) of this section, "subsidized health plan" 355
means a health plan for which the employer pays any portion of 356
the plan's cost. The deduction allowed under division (A) (10) (a) 357
of this section shall be the net of any related premium refunds, 358
related premium reimbursements, or related insurance premium 359
dividends received during the taxable year. 360

(b) Deduct, to the extent not otherwise deducted or 361
excluded in computing federal or Ohio adjusted gross income 362
during the taxable year, the amount the taxpayer paid during the 363
taxable year, not compensated for by any insurance or otherwise, 364
for medical care of the taxpayer, the taxpayer's spouse, and 365

dependents, to the extent the expenses exceed seven and one-half 366
per cent of the taxpayer's federal adjusted gross income. 367

(c) For purposes of division (A)(10) of this section, 368
"medical care" has the meaning given in section 213 of the 369
Internal Revenue Code, subject to the special rules, 370
limitations, and exclusions set forth therein, and "qualified 371
long-term care" has the same meaning given in section 7702B(c) 372
of the Internal Revenue Code. Solely for purposes of division 373
(A)(10)(a) of this section, "dependent" includes a person who 374
otherwise would be a "qualifying relative" and thus a 375
"dependent" under section 152 of the Internal Revenue Code but 376
for the fact that the person fails to meet the income and 377
support limitations under section 152(d)(1)(B) and (C) of the 378
Internal Revenue Code. 379

(11)(a) Deduct any amount included in federal adjusted 380
gross income solely because the amount represents a 381
reimbursement or refund of expenses that in any year the 382
taxpayer had deducted as an itemized deduction pursuant to 383
section 63 of the Internal Revenue Code and applicable United 384
States department of the treasury regulations. The deduction 385
otherwise allowed under division (A)(11)(a) of this section 386
shall be reduced to the extent the reimbursement is attributable 387
to an amount the taxpayer deducted under this section in any 388
taxable year. 389

(b) Add any amount not otherwise included in Ohio adjusted 390
gross income for any taxable year to the extent that the amount 391
is attributable to the recovery during the taxable year of any 392
amount deducted or excluded in computing federal or Ohio 393
adjusted gross income in any taxable year. 394

(12) Deduct any portion of the deduction described in 395

section 1341(a) (2) of the Internal Revenue Code, for repaying 396
previously reported income received under a claim of right, that 397
meets both of the following requirements: 398

(a) It is allowable for repayment of an item that was 399
included in the taxpayer's adjusted gross income for a prior 400
taxable year and did not qualify for a credit under division (A) 401
or (B) of section 5747.05 of the Revised Code for that year; 402

(b) It does not otherwise reduce the taxpayer's adjusted 403
gross income for the current or any other taxable year. 404

(13) Deduct an amount equal to the deposits made to, and 405
net investment earnings of, a medical savings account during the 406
taxable year, in accordance with section 3924.66 of the Revised 407
Code. The deduction allowed by division (A) (13) of this section 408
does not apply to medical savings account deposits and earnings 409
otherwise deducted or excluded for the current or any other 410
taxable year from the taxpayer's federal adjusted gross income. 411

(14) (a) Add an amount equal to the funds withdrawn from a 412
medical savings account during the taxable year, and the net 413
investment earnings on those funds, when the funds withdrawn 414
were used for any purpose other than to reimburse an account 415
holder for, or to pay, eligible medical expenses, in accordance 416
with section 3924.66 of the Revised Code; 417

(b) Add the amounts distributed from a medical savings 418
account under division (A) (2) of section 3924.68 of the Revised 419
Code during the taxable year. 420

(15) Add any amount claimed as a credit under section 421
5747.059 of the Revised Code to the extent that such amount 422
satisfies either of the following: 423

(a) The amount was deducted or excluded from the 424

computation of the taxpayer's federal adjusted gross income as 425
required to be reported for the taxpayer's taxable year under 426
the Internal Revenue Code; 427

(b) The amount resulted in a reduction of the taxpayer's 428
federal adjusted gross income as required to be reported for any 429
of the taxpayer's taxable years under the Internal Revenue Code. 430

(16) Deduct the amount contributed by the taxpayer to an 431
individual development account program established by a county 432
department of job and family services pursuant to sections 433
329.11 to 329.14 of the Revised Code for the purpose of matching 434
funds deposited by program participants. On request of the tax 435
commissioner, the taxpayer shall provide any information that, 436
in the tax commissioner's opinion, is necessary to establish the 437
amount deducted under division (A) (16) of this section. 438

(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and 439
(v) of this section, add five-sixths of the amount of 440
depreciation expense allowed by subsection (k) of section 168 of 441
the Internal Revenue Code, including the taxpayer's 442
proportionate or distributive share of the amount of 443
depreciation expense allowed by that subsection to a pass- 444
through entity in which the taxpayer has a direct or indirect 445
ownership interest. 446

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 447
of this section, add five-sixths of the amount of qualifying 448
section 179 depreciation expense, including the taxpayer's 449
proportionate or distributive share of the amount of qualifying 450
section 179 depreciation expense allowed to any pass-through 451
entity in which the taxpayer has a direct or indirect ownership 452
interest. 453

(iii) Subject to division (A) (17) (a) (v) of this section, 454
for taxable years beginning in 2012 or thereafter, if the 455
increase in income taxes withheld by the taxpayer is equal to or 456
greater than ten per cent of income taxes withheld by the 457
taxpayer during the taxpayer's immediately preceding taxable 458
year, "two-thirds" shall be substituted for "five-sixths" for 459
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 460

(iv) Subject to division (A) (17) (a) (v) of this section, 461
for taxable years beginning in 2012 or thereafter, a taxpayer is 462
not required to add an amount under division (A) (17) of this 463
section if the increase in income taxes withheld by the taxpayer 464
and by any pass-through entity in which the taxpayer has a 465
direct or indirect ownership interest is equal to or greater 466
than the sum of (I) the amount of qualifying section 179 467
depreciation expense and (II) the amount of depreciation expense 468
allowed to the taxpayer by subsection (k) of section 168 of the 469
Internal Revenue Code, and including the taxpayer's 470
proportionate or distributive shares of such amounts allowed to 471
any such pass-through entities. 472

(v) If a taxpayer directly or indirectly incurs a net 473
operating loss for the taxable year for federal income tax 474
purposes, to the extent such loss resulted from depreciation 475
expense allowed by subsection (k) of section 168 of the Internal 476
Revenue Code and by qualifying section 179 depreciation expense, 477
"the entire" shall be substituted for "five-sixths of the" for 478
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 479

The tax commissioner, under procedures established by the 480
commissioner, may waive the add-backs related to a pass-through 481
entity if the taxpayer owns, directly or indirectly, less than 482
five per cent of the pass-through entity. 483

(b) Nothing in division (A) (17) of this section shall be 484
construed to adjust or modify the adjusted basis of any asset. 485

(c) To the extent the add-back required under division (A) 486
(17) (a) of this section is attributable to property generating 487
nonbusiness income or loss allocated under section 5747.20 of 488
the Revised Code, the add-back shall be situated to the same 489
location as the nonbusiness income or loss generated by the 490
property for the purpose of determining the credit under 491
division (A) of section 5747.05 of the Revised Code. Otherwise, 492
the add-back shall be apportioned, subject to one or more of the 493
four alternative methods of apportionment enumerated in section 494
5747.21 of the Revised Code. 495

(d) For the purposes of division (A) (17) (a) (v) of this 496
section, net operating loss carryback and carryforward shall not 497
include the allowance of any net operating loss deduction 498
carryback or carryforward to the taxable year to the extent such 499
loss resulted from depreciation allowed by section 168(k) of the 500
Internal Revenue Code and by the qualifying section 179 501
depreciation expense amount. 502

(e) For the purposes of divisions (A) (17) and (18) of this 503
section: 504

(i) "Income taxes withheld" means the total amount 505
withheld and remitted under sections 5747.06 and 5747.07 of the 506
Revised Code by an employer during the employer's taxable year. 507

(ii) "Increase in income taxes withheld" means the amount 508
by which the amount of income taxes withheld by an employer 509
during the employer's current taxable year exceeds the amount of 510
income taxes withheld by that employer during the employer's 511
immediately preceding taxable year. 512

(iii) "Qualifying section 179 depreciation expense" means 513
the difference between (I) the amount of depreciation expense 514
directly or indirectly allowed to a taxpayer under section 179 515
of the Internal Revised Code, and (II) the amount of 516
depreciation expense directly or indirectly allowed to the 517
taxpayer under section 179 of the Internal Revenue Code as that 518
section existed on December 31, 2002. 519

(18) (a) If the taxpayer was required to add an amount 520
under division (A) (17) (a) of this section for a taxable year, 521
deduct one of the following: 522

(i) One-fifth of the amount so added for each of the five 523
succeeding taxable years if the amount so added was five-sixths 524
of qualifying section 179 depreciation expense or depreciation 525
expense allowed by subsection (k) of section 168 of the Internal 526
Revenue Code; 527

(ii) One-half of the amount so added for each of the two 528
succeeding taxable years if the amount so added was two-thirds 529
of such depreciation expense; 530

(iii) One-sixth of the amount so added for each of the six 531
succeeding taxable years if the entire amount of such 532
depreciation expense was so added. 533

(b) If the amount deducted under division (A) (18) (a) of 534
this section is attributable to an add-back allocated under 535
division (A) (17) (c) of this section, the amount deducted shall 536
be situated to the same location. Otherwise, the add-back shall 537
be apportioned using the apportionment factors for the taxable 538
year in which the deduction is taken, subject to one or more of 539
the four alternative methods of apportionment enumerated in 540
section 5747.21 of the Revised Code. 541

(c) No deduction is available under division (A) (18) (a) of 542
this section with regard to any depreciation allowed by section 543
168(k) of the Internal Revenue Code and by the qualifying 544
section 179 depreciation expense amount to the extent that such 545
depreciation results in or increases a federal net operating 546
loss carryback or carryforward. If no such deduction is 547
available for a taxable year, the taxpayer may carry forward the 548
amount not deducted in such taxable year to the next taxable 549
year and add that amount to any deduction otherwise available 550
under division (A) (18) (a) of this section for that next taxable 551
year. The carryforward of amounts not so deducted shall continue 552
until the entire addition required by division (A) (17) (a) of 553
this section has been deducted. 554

(19) Deduct, to the extent not otherwise deducted or 555
excluded in computing federal or Ohio adjusted gross income for 556
the taxable year, the amount the taxpayer received during the 557
taxable year as reimbursement for life insurance premiums under 558
section 5919.31 of the Revised Code. 559

(20) Deduct, to the extent not otherwise deducted or 560
excluded in computing federal or Ohio adjusted gross income for 561
the taxable year, the amount the taxpayer received during the 562
taxable year as a death benefit paid by the adjutant general 563
under section 5919.33 of the Revised Code. 564

(21) Deduct, to the extent included in federal adjusted 565
gross income and not otherwise allowable as a deduction or 566
exclusion in computing federal or Ohio adjusted gross income for 567
the taxable year, military pay and allowances received by the 568
taxpayer during the taxable year for active duty service in the 569
United States army, air force, navy, marine corps, or coast 570
guard or reserve components thereof or the national guard. The 571

deduction may not be claimed for military pay and allowances 572
received by the taxpayer while the taxpayer is stationed in this 573
state. 574

(22) Deduct, to the extent not otherwise allowable as a 575
deduction or exclusion in computing federal or Ohio adjusted 576
gross income for the taxable year and not otherwise compensated 577
for by any other source, the amount of qualified organ donation 578
expenses incurred by the taxpayer during the taxable year, not 579
to exceed ten thousand dollars. A taxpayer may deduct qualified 580
organ donation expenses only once for all taxable years 581
beginning with taxable years beginning in 2007. 582

For the purposes of division (A) (22) of this section: 583

(a) "Human organ" means all or any portion of a human 584
liver, pancreas, kidney, intestine, or lung, and any portion of 585
human bone marrow. 586

(b) "Qualified organ donation expenses" means travel 587
expenses, lodging expenses, and wages and salary forgone by a 588
taxpayer in connection with the taxpayer's donation, while 589
living, of one or more of the taxpayer's human organs to another 590
human being. 591

(23) Deduct, to the extent not otherwise deducted or 592
excluded in computing federal or Ohio adjusted gross income for 593
the taxable year, amounts received by the taxpayer as retired 594
personnel pay for service in the uniformed services or reserve 595
components thereof, or the national guard, or received by the 596
surviving spouse or former spouse of such a taxpayer under the 597
survivor benefit plan on account of such a taxpayer's death. If 598
the taxpayer receives income on account of retirement paid under 599
the federal civil service retirement system or federal employees 600

retirement system, or under any successor retirement program 601
enacted by the congress of the United States that is established 602
and maintained for retired employees of the United States 603
government, and such retirement income is based, in whole or in 604
part, on credit for the taxpayer's uniformed service, the 605
deduction allowed under this division shall include only that 606
portion of such retirement income that is attributable to the 607
taxpayer's uniformed service, to the extent that portion of such 608
retirement income is otherwise included in federal adjusted 609
gross income and is not otherwise deducted under this section. 610
Any amount deducted under division (A) (23) of this section is 611
not included in a taxpayer's adjusted gross income for the 612
purposes of section 5747.055 of the Revised Code. No amount may 613
be deducted under division (A) (23) of this section on the basis 614
of which a credit was claimed under section 5747.055 of the 615
Revised Code. 616

(24) Deduct, to the extent not otherwise deducted or 617
excluded in computing federal or Ohio adjusted gross income for 618
the taxable year, the amount the taxpayer received during the 619
taxable year from the military injury relief fund created in 620
section 5902.05 of the Revised Code. 621

(25) Deduct, to the extent not otherwise deducted or 622
excluded in computing federal or Ohio adjusted gross income for 623
the taxable year, the amount the taxpayer received as a veterans 624
bonus during the taxable year from the Ohio department of 625
veterans services as authorized by Section 2r of Article VIII, 626
Ohio Constitution. 627

(26) Deduct, to the extent not otherwise deducted or 628
excluded in computing federal or Ohio adjusted gross income for 629
the taxable year, any income derived from a transfer agreement 630

or from the enterprise transferred under that agreement under 631
section 4313.02 of the Revised Code. 632

(27) Deduct, to the extent not otherwise deducted or 633
excluded in computing federal or Ohio adjusted gross income for 634
the taxable year, Ohio college opportunity or federal Pell grant 635
amounts received by the taxpayer or the taxpayer's spouse or 636
dependent pursuant to section 3333.122 of the Revised Code or 20 637
U.S.C. 1070a, et seq., and used to pay room or board furnished 638
by the educational institution for which the grant was awarded 639
at the institution's facilities, including meal plans 640
administered by the institution. For the purposes of this 641
division, receipt of a grant includes the distribution of a 642
grant directly to an educational institution and the crediting 643
of the grant to the enrollee's account with the institution. 644

(28) Deduct from the portion of an individual's federal 645
adjusted gross income that is business income, to the extent not 646
otherwise deducted or excluded in computing federal adjusted 647
gross income for the taxable year, one hundred twenty-five 648
thousand dollars for each spouse if spouses file separate 649
returns under section 5747.08 of the Revised Code or two hundred 650
fifty thousand dollars for all other individuals. 651

(29) Deduct, as provided under section 5747.78 of the 652
Revised Code, contributions to ABLE savings accounts made in 653
accordance with sections 113.50 to 113.56 of the Revised Code. 654

(30) (a) Deduct, to the extent not otherwise deducted or 655
excluded in computing federal or Ohio adjusted gross income 656
during the taxable year, all of the following: 657

(i) Compensation paid to a qualifying employee described 658
in division (A) (14) (a) of section 5703.94 of the Revised Code to 659

the extent such compensation is for disaster work conducted in 660
this state during a disaster response period pursuant to a 661
qualifying solicitation received by the employee's employer; 662

(ii) Compensation paid to a qualifying employee described 663
in division (A)(14)(b) of section 5703.94 of the Revised Code to 664
the extent such compensation is for disaster work conducted in 665
this state by the employee during the disaster response period 666
on critical infrastructure owned or used by the employee's 667
employer; 668

(iii) Income received by an out-of-state disaster business 669
for disaster work conducted in this state during a disaster 670
response period, or, if the out-of-state disaster business is a 671
pass-through entity, a taxpayer's distributive share of the 672
pass-through entity's income from the business conducting 673
disaster work in this state during a disaster response period, 674
if, in either case, the disaster work is conducted pursuant to a 675
qualifying solicitation received by the business. 676

(b) All terms used in division (A)(30) of this section 677
have the same meanings as in section 5703.94 of the Revised 678
Code. 679

(31) For a taxpayer who is a qualifying Ohio educator, 680
deduct, to the extent not otherwise deducted or excluded in 681
computing federal or Ohio adjusted gross income for the taxable 682
year, the lesser of two hundred fifty dollars or the amount of 683
expenses described in subsections (a)(2)(D)(i) and (ii) of 684
section 62 of the Internal Revenue Code paid or incurred by the 685
taxpayer during the taxpayer's taxable year in excess of the 686
amount the taxpayer is authorized to deduct for that taxable 687
year under subsection (a)(2)(D) of that section. 688

~~(34)~~(32) Deduct, to the extent not otherwise deducted or 689
excluded in computing federal or Ohio adjusted gross income for 690
the taxable year, amounts received by the taxpayer as a 691
disability severance payment, computed under 10 U.S.C. 1212, 692
following discharge or release under honorable conditions from 693
the armed forces, as defined by 10 U.S.C. 101. 694

(33)(a) Deduct the amounts described in division (A) of 695
section 193.05 of the Revised Code pertaining to deposits made 696
to, and the interest and other income on the principal balance 697
of, a first-time home buyer savings account during the taxable 698
year. The deduction allowed by division (A)(33)(a) of this 699
section does not apply to first-time home buyer savings account 700
deposits and earnings otherwise deducted or excluded for the 701
current or any other taxable year from the taxpayer's federal 702
adjusted gross income. 703

(b) Add the amounts described in division (B) of section 704
193.05 of the Revised Code pertaining to withdrawals from a 705
first-time home buyer savings account during the taxable year 706
that are not used to pay eligible costs for the purchase of a 707
single-family residence by a qualified beneficiary, investment 708
earnings on such withdrawals, and amounts remaining in a first- 709
time home buyer savings account on the thirty-first day of 710
December of the fourteenth taxable year following the date the 711
account was opened. 712

(B) "Business income" means income, including gain or 713
loss, arising from transactions, activities, and sources in the 714
regular course of a trade or business and includes income, gain, 715
or loss from real property, tangible property, and intangible 716
property if the acquisition, rental, management, and disposition 717
of the property constitute integral parts of the regular course 718

of a trade or business operation. "Business income" includes 719
income, including gain or loss, from a partial or complete 720
liquidation of a business, including, but not limited to, gain 721
or loss from the sale or other disposition of goodwill. 722

(C) "Nonbusiness income" means all income other than 723
business income and may include, but is not limited to, 724
compensation, rents and royalties from real or tangible personal 725
property, capital gains, interest, dividends and distributions, 726
patent or copyright royalties, or lottery winnings, prizes, and 727
awards. 728

(D) "Compensation" means any form of remuneration paid to 729
an employee for personal services. 730

(E) "Fiduciary" means a guardian, trustee, executor, 731
administrator, receiver, conservator, or any other person acting 732
in any fiduciary capacity for any individual, trust, or estate. 733

(F) "Fiscal year" means an accounting period of twelve 734
months ending on the last day of any month other than December. 735

(G) "Individual" means any natural person. 736

(H) "Internal Revenue Code" means the "Internal Revenue 737
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 738

(I) "Resident" means any of the following: 739

(1) An individual who is domiciled in this state, subject 740
to section 5747.24 of the Revised Code; 741

(2) The estate of a decedent who at the time of death was 742
domiciled in this state. The domicile tests of section 5747.24 743
of the Revised Code are not controlling for purposes of division 744
(I) (2) of this section. 745

(3) A trust that, in whole or part, resides in this state. 746
If only part of a trust resides in this state, the trust is a 747
resident only with respect to that part. 748

For the purposes of division (I)(3) of this section: 749

(a) A trust resides in this state for the trust's current 750
taxable year to the extent, as described in division (I)(3)(d) 751
of this section, that the trust consists directly or indirectly, 752
in whole or in part, of assets, net of any related liabilities, 753
that were transferred, or caused to be transferred, directly or 754
indirectly, to the trust by any of the following: 755

(i) A person, a court, or a governmental entity or 756
instrumentality on account of the death of a decedent, but only 757
if the trust is described in division (I)(3)(e)(i) or (ii) of 758
this section; 759

(ii) A person who was domiciled in this state for the 760
purposes of this chapter when the person directly or indirectly 761
transferred assets to an irrevocable trust, but only if at least 762
one of the trust's qualifying beneficiaries is domiciled in this 763
state for the purposes of this chapter during all or some 764
portion of the trust's current taxable year; 765

(iii) A person who was domiciled in this state for the 766
purposes of this chapter when the trust document or instrument 767
or part of the trust document or instrument became irrevocable, 768
but only if at least one of the trust's qualifying beneficiaries 769
is a resident domiciled in this state for the purposes of this 770
chapter during all or some portion of the trust's current 771
taxable year. If a trust document or instrument became 772
irrevocable upon the death of a person who at the time of death 773
was domiciled in this state for purposes of this chapter, that 774

person is a person described in division (I) (3) (a) (iii) of this section. 775
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(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. 777
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(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. 781
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(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: 791
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(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 799
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liabilities. 805

(ii) Each subsequent time the trust receives assets, a 806
revised qualifying ratio shall be computed. The numerator of the 807
revised qualifying ratio is the sum of (1) the fair market value 808
of the trust's assets immediately prior to the subsequent 809
transfer, net of any related liabilities, multiplied by the 810
qualifying ratio last computed without regard to the subsequent 811
transfer, and (2) the fair market value of the subsequently 812
transferred assets at the time transferred, net of any related 813
liabilities, from sources enumerated in division (I) (3) (a) of 814
this section. The denominator of the revised qualifying ratio is 815
the fair market value of all the trust's assets immediately 816
after the subsequent transfer, net of any related liabilities. 817

(iii) Whether a transfer to the trust is by or from any of 818
the sources enumerated in division (I) (3) (a) of this section 819
shall be ascertained without regard to the domicile of the 820
trust's beneficiaries. 821

(e) For the purposes of division (I) (3) (a) (i) of this 822
section: 823

(i) A trust is described in division (I) (3) (e) (i) of this 824
section if the trust is a testamentary trust and the testator of 825
that testamentary trust was domiciled in this state at the time 826
of the testator's death for purposes of the taxes levied under 827
Chapter 5731. of the Revised Code. 828

(ii) A trust is described in division (I) (3) (e) (ii) of 829
this section if the transfer is a qualifying transfer described 830
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 831
trust is an irrevocable inter vivos trust, and at least one of 832
the trust's qualifying beneficiaries is domiciled in this state 833

for purposes of this chapter during all or some portion of the 834
trust's current taxable year. 835

(f) For the purposes of division (I) (3) (e) (ii) of this 836
section, a "qualifying transfer" is a transfer of assets, net of 837
any related liabilities, directly or indirectly to a trust, if 838
the transfer is described in any of the following: 839

(i) The transfer is made to a trust, created by the 840
decedent before the decedent's death and while the decedent was 841
domiciled in this state for the purposes of this chapter, and, 842
prior to the death of the decedent, the trust became irrevocable 843
while the decedent was domiciled in this state for the purposes 844
of this chapter. 845

(ii) The transfer is made to a trust to which the 846
decedent, prior to the decedent's death, had directly or 847
indirectly transferred assets, net of any related liabilities, 848
while the decedent was domiciled in this state for the purposes 849
of this chapter, and prior to the death of the decedent the 850
trust became irrevocable while the decedent was domiciled in 851
this state for the purposes of this chapter. 852

(iii) The transfer is made on account of a contractual 853
relationship existing directly or indirectly between the 854
transferor and either the decedent or the estate of the decedent 855
at any time prior to the date of the decedent's death, and the 856
decedent was domiciled in this state at the time of death for 857
purposes of the taxes levied under Chapter 5731. of the Revised 858
Code. 859

(iv) The transfer is made to a trust on account of a 860
contractual relationship existing directly or indirectly between 861
the transferor and another person who at the time of the 862

decedent's death was domiciled in this state for purposes of 863
this chapter. 864

(v) The transfer is made to a trust on account of the will 865
of a testator who was domiciled in this state at the time of the 866
testator's death for purposes of the taxes levied under Chapter 867
5731. of the Revised Code. 868

(vi) The transfer is made to a trust created by or caused 869
to be created by a court, and the trust was directly or 870
indirectly created in connection with or as a result of the 871
death of an individual who, for purposes of the taxes levied 872
under Chapter 5731. of the Revised Code, was domiciled in this 873
state at the time of the individual's death. 874

(g) The tax commissioner may adopt rules to ascertain the 875
part of a trust residing in this state. 876

(J) "Nonresident" means an individual or estate that is 877
not a resident. An individual who is a resident for only part of 878
a taxable year is a nonresident for the remainder of that 879
taxable year. 880

(K) "Pass-through entity" has the same meaning as in 881
section 5733.04 of the Revised Code. 882

(L) "Return" means the notifications and reports required 883
to be filed pursuant to this chapter for the purpose of 884
reporting the tax due and includes declarations of estimated tax 885
when so required. 886

(M) "Taxable year" means the calendar year or the 887
taxpayer's fiscal year ending during the calendar year, or 888
fractional part thereof, upon which the adjusted gross income is 889
calculated pursuant to this chapter. 890

(N) "Taxpayer" means any person subject to the tax imposed	891
by section 5747.02 of the Revised Code or any pass-through	892
entity that makes the election under division (D) of section	893
5747.08 of the Revised Code.	894
(O) "Dependents" means one of the following:	895
(1) For taxable years beginning on or after January 1,	896
2018, and before January 1, 2026, dependents as defined in the	897
Internal Revenue Code;	898
(2) For all other taxable years, dependents as defined in	899
the Internal Revenue Code and as claimed in the taxpayer's	900
federal income tax return for the taxable year or which the	901
taxpayer would have been permitted to claim had the taxpayer	902
filed a federal income tax return.	903
(P) "Principal county of employment" means, in the case of	904
a nonresident, the county within the state in which a taxpayer	905
performs services for an employer or, if those services are	906
performed in more than one county, the county in which the major	907
portion of the services are performed.	908
(Q) As used in sections 5747.50 to 5747.55 of the Revised	909
Code:	910
(1) "Subdivision" means any county, municipal corporation,	911
park district, or township.	912
(2) "Essential local government purposes" includes all	913
functions that any subdivision is required by general law to	914
exercise, including like functions that are exercised under a	915
charter adopted pursuant to the Ohio Constitution.	916
(R) "Overpayment" means any amount already paid that	917
exceeds the figure determined to be the correct amount of the	918

tax.	919
(S) "Taxable income" or "Ohio taxable income" applies only	920
to estates and trusts, and means federal taxable income, as	921
defined and used in the Internal Revenue Code, adjusted as	922
follows:	923
(1) Add interest or dividends, net of ordinary, necessary,	924
and reasonable expenses not deducted in computing federal	925
taxable income, on obligations or securities of any state or of	926
any political subdivision or authority of any state, other than	927
this state and its subdivisions and authorities, but only to the	928
extent that such net amount is not otherwise includible in Ohio	929
taxable income and is described in either division (S) (1) (a) or	930
(b) of this section:	931
(a) The net amount is not attributable to the S portion of	932
an electing small business trust and has not been distributed to	933
beneficiaries for the taxable year;	934
(b) The net amount is attributable to the S portion of an	935
electing small business trust for the taxable year.	936
(2) Add interest or dividends, net of ordinary, necessary,	937
and reasonable expenses not deducted in computing federal	938
taxable income, on obligations of any authority, commission,	939
instrumentality, territory, or possession of the United States	940
to the extent that the interest or dividends are exempt from	941
federal income taxes but not from state income taxes, but only	942
to the extent that such net amount is not otherwise includible	943
in Ohio taxable income and is described in either division (S)	944
(1) (a) or (b) of this section;	945
(3) Add the amount of personal exemption allowed to the	946
estate pursuant to section 642(b) of the Internal Revenue Code;	947

(4) Deduct interest or dividends, net of related expenses 948
deducted in computing federal taxable income, on obligations of 949
the United States and its territories and possessions or of any 950
authority, commission, or instrumentality of the United States 951
to the extent that the interest or dividends are exempt from 952
state taxes under the laws of the United States, but only to the 953
extent that such amount is included in federal taxable income 954
and is described in either division (S) (1) (a) or (b) of this 955
section; 956

(5) Deduct the amount of wages and salaries, if any, not 957
otherwise allowable as a deduction but that would have been 958
allowable as a deduction in computing federal taxable income for 959
the taxable year, had the targeted jobs credit allowed under 960
sections 38, 51, and 52 of the Internal Revenue Code not been in 961
effect, but only to the extent such amount relates either to 962
income included in federal taxable income for the taxable year 963
or to income of the S portion of an electing small business 964
trust for the taxable year; 965

(6) Deduct any interest or interest equivalent, net of 966
related expenses deducted in computing federal taxable income, 967
on public obligations and purchase obligations, but only to the 968
extent that such net amount relates either to income included in 969
federal taxable income for the taxable year or to income of the 970
S portion of an electing small business trust for the taxable 971
year; 972

(7) Add any loss or deduct any gain resulting from sale, 973
exchange, or other disposition of public obligations to the 974
extent that such loss has been deducted or such gain has been 975
included in computing either federal taxable income or income of 976
the S portion of an electing small business trust for the 977

taxable year;	978
(8) Except in the case of the final return of an estate,	979
add any amount deducted by the taxpayer on both its Ohio estate	980
tax return pursuant to section 5731.14 of the Revised Code, and	981
on its federal income tax return in determining federal taxable	982
income;	983
(9) (a) Deduct any amount included in federal taxable	984
income solely because the amount represents a reimbursement or	985
refund of expenses that in a previous year the decedent had	986
deducted as an itemized deduction pursuant to section 63 of the	987
Internal Revenue Code and applicable treasury regulations. The	988
deduction otherwise allowed under division (S) (9) (a) of this	989
section shall be reduced to the extent the reimbursement is	990
attributable to an amount the taxpayer or decedent deducted	991
under this section in any taxable year.	992
(b) Add any amount not otherwise included in Ohio taxable	993
income for any taxable year to the extent that the amount is	994
attributable to the recovery during the taxable year of any	995
amount deducted or excluded in computing federal or Ohio taxable	996
income in any taxable year, but only to the extent such amount	997
has not been distributed to beneficiaries for the taxable year.	998
(10) Deduct any portion of the deduction described in	999
section 1341(a) (2) of the Internal Revenue Code, for repaying	1000
previously reported income received under a claim of right, that	1001
meets both of the following requirements:	1002
(a) It is allowable for repayment of an item that was	1003
included in the taxpayer's taxable income or the decedent's	1004
adjusted gross income for a prior taxable year and did not	1005
qualify for a credit under division (A) or (B) of section	1006

5747.05 of the Revised Code for that year. 1007

(b) It does not otherwise reduce the taxpayer's taxable 1008
income or the decedent's adjusted gross income for the current 1009
or any other taxable year. 1010

(11) Add any amount claimed as a credit under section 1011
5747.059 of the Revised Code to the extent that the amount 1012
satisfies either of the following: 1013

(a) The amount was deducted or excluded from the 1014
computation of the taxpayer's federal taxable income as required 1015
to be reported for the taxpayer's taxable year under the 1016
Internal Revenue Code; 1017

(b) The amount resulted in a reduction in the taxpayer's 1018
federal taxable income as required to be reported for any of the 1019
taxpayer's taxable years under the Internal Revenue Code. 1020

(12) Deduct any amount, net of related expenses deducted 1021
in computing federal taxable income, that a trust is required to 1022
report as farm income on its federal income tax return, but only 1023
if the assets of the trust include at least ten acres of land 1024
satisfying the definition of "land devoted exclusively to 1025
agricultural use" under section 5713.30 of the Revised Code, 1026
regardless of whether the land is valued for tax purposes as 1027
such land under sections 5713.30 to 5713.38 of the Revised Code. 1028
If the trust is a pass-through entity investor, section 5747.231 1029
of the Revised Code applies in ascertaining if the trust is 1030
eligible to claim the deduction provided by division (S)(12) of 1031
this section in connection with the pass-through entity's farm 1032
income. 1033

Except for farm income attributable to the S portion of an 1034
electing small business trust, the deduction provided by 1035

division (S) (12) of this section is allowed only to the extent 1036
that the trust has not distributed such farm income. 1037

(13) Add the net amount of income described in section 1038
641(c) of the Internal Revenue Code to the extent that amount is 1039
not included in federal taxable income. 1040

(14) Add or deduct the amount the taxpayer would be 1041
required to add or deduct under division (A) (17) or (18) of this 1042
section if the taxpayer's Ohio taxable income were computed in 1043
the same manner as an individual's Ohio adjusted gross income is 1044
computed under this section. 1045

(T) "School district income" and "school district income 1046
tax" have the same meanings as in section 5748.01 of the Revised 1047
Code. 1048

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1049
(7) of this section, "public obligations," "purchase 1050
obligations," and "interest or interest equivalent" have the 1051
same meanings as in section 5709.76 of the Revised Code. 1052

(V) "Limited liability company" means any limited 1053
liability company formed under Chapter 1705. or 1706. of the 1054
Revised Code or under the laws of any other state. 1055

(W) "Pass-through entity investor" means any person who, 1056
during any portion of a taxable year of a pass-through entity, 1057
is a partner, member, shareholder, or equity investor in that 1058
pass-through entity. 1059

(X) "Banking day" has the same meaning as in section 1060
1304.01 of the Revised Code. 1061

(Y) "Month" means a calendar month. 1062

(Z) "Quarter" means the first three months, the second 1063

three months, the third three months, or the last three months 1064
of the taxpayer's taxable year. 1065

(AA) (1) "Modified business income" means the business 1066
income included in a trust's Ohio taxable income after such 1067
taxable income is first reduced by the qualifying trust amount, 1068
if any. 1069

(2) "Qualifying trust amount" of a trust means capital 1070
gains and losses from the sale, exchange, or other disposition 1071
of equity or ownership interests in, or debt obligations of, a 1072
qualifying investee to the extent included in the trust's Ohio 1073
taxable income, but only if the following requirements are 1074
satisfied: 1075

(a) The book value of the qualifying investee's physical 1076
assets in this state and everywhere, as of the last day of the 1077
qualifying investee's fiscal or calendar year ending immediately 1078
prior to the date on which the trust recognizes the gain or 1079
loss, is available to the trust. 1080

(b) The requirements of section 5747.011 of the Revised 1081
Code are satisfied for the trust's taxable year in which the 1082
trust recognizes the gain or loss. 1083

Any gain or loss that is not a qualifying trust amount is 1084
modified business income, qualifying investment income, or 1085
modified nonbusiness income, as the case may be. 1086

(3) "Modified nonbusiness income" means a trust's Ohio 1087
taxable income other than modified business income, other than 1088
the qualifying trust amount, and other than qualifying 1089
investment income, as defined in section 5747.012 of the Revised 1090
Code, to the extent such qualifying investment income is not 1091
otherwise part of modified business income. 1092

(4) "Modified Ohio taxable income" applies only to trusts, 1093
and means the sum of the amounts described in divisions (AA) (4) 1094
(a) to (c) of this section: 1095

(a) The fraction, calculated under section 5747.013, and 1096
applying section 5747.231 of the Revised Code, multiplied by the 1097
sum of the following amounts: 1098

(i) The trust's modified business income; 1099

(ii) The trust's qualifying investment income, as defined 1100
in section 5747.012 of the Revised Code, but only to the extent 1101
the qualifying investment income does not otherwise constitute 1102
modified business income and does not otherwise constitute a 1103
qualifying trust amount. 1104

(b) The qualifying trust amount multiplied by a fraction, 1105
the numerator of which is the sum of the book value of the 1106
qualifying investee's physical assets in this state on the last 1107
day of the qualifying investee's fiscal or calendar year ending 1108
immediately prior to the day on which the trust recognizes the 1109
qualifying trust amount, and the denominator of which is the sum 1110
of the book value of the qualifying investee's total physical 1111
assets everywhere on the last day of the qualifying investee's 1112
fiscal or calendar year ending immediately prior to the day on 1113
which the trust recognizes the qualifying trust amount. If, for 1114
a taxable year, the trust recognizes a qualifying trust amount 1115
with respect to more than one qualifying investee, the amount 1116
described in division (AA) (4) (b) of this section shall equal the 1117
sum of the products so computed for each such qualifying 1118
investee. 1119

(c) (i) With respect to a trust or portion of a trust that 1120
is a resident as ascertained in accordance with division (I) (3) 1121

(d) of this section, its modified nonbusiness income. 1122

(ii) With respect to a trust or portion of a trust that is 1123
not a resident as ascertained in accordance with division (I) (3) 1124
(d) of this section, the amount of its modified nonbusiness 1125
income satisfying the descriptions in divisions (B) (2) to (5) of 1126
section 5747.20 of the Revised Code, except as otherwise 1127
provided in division (AA) (4) (c) (ii) of this section. With 1128
respect to a trust or portion of a trust that is not a resident 1129
as ascertained in accordance with division (I) (3) (d) of this 1130
section, the trust's portion of modified nonbusiness income 1131
recognized from the sale, exchange, or other disposition of a 1132
debt interest in or equity interest in a section 5747.212 1133
entity, as defined in section 5747.212 of the Revised Code, 1134
without regard to division (A) of that section, shall not be 1135
allocated to this state in accordance with section 5747.20 of 1136
the Revised Code but shall be apportioned to this state in 1137
accordance with division (B) of section 5747.212 of the Revised 1138
Code without regard to division (A) of that section. 1139

If the allocation and apportionment of a trust's income 1140
under divisions (AA) (4) (a) and (c) of this section do not fairly 1141
represent the modified Ohio taxable income of the trust in this 1142
state, the alternative methods described in division (C) of 1143
section 5747.21 of the Revised Code may be applied in the manner 1144
and to the same extent provided in that section. 1145

(5) (a) Except as set forth in division (AA) (5) (b) of this 1146
section, "qualifying investee" means a person in which a trust 1147
has an equity or ownership interest, or a person or unit of 1148
government the debt obligations of either of which are owned by 1149
a trust. For the purposes of division (AA) (2) (a) of this section 1150
and for the purpose of computing the fraction described in 1151

division (AA) (4) (b) of this section, all of the following apply: 1152

(i) If the qualifying investee is a member of a qualifying 1153
controlled group on the last day of the qualifying investee's 1154
fiscal or calendar year ending immediately prior to the date on 1155
which the trust recognizes the gain or loss, then "qualifying 1156
investee" includes all persons in the qualifying controlled 1157
group on such last day. 1158

(ii) If the qualifying investee, or if the qualifying 1159
investee and any members of the qualifying controlled group of 1160
which the qualifying investee is a member on the last day of the 1161
qualifying investee's fiscal or calendar year ending immediately 1162
prior to the date on which the trust recognizes the gain or 1163
loss, separately or cumulatively own, directly or indirectly, on 1164
the last day of the qualifying investee's fiscal or calendar 1165
year ending immediately prior to the date on which the trust 1166
recognizes the qualifying trust amount, more than fifty per cent 1167
of the equity of a pass-through entity, then the qualifying 1168
investee and the other members are deemed to own the 1169
proportionate share of the pass-through entity's physical assets 1170
which the pass-through entity directly or indirectly owns on the 1171
last day of the pass-through entity's calendar or fiscal year 1172
ending within or with the last day of the qualifying investee's 1173
fiscal or calendar year ending immediately prior to the date on 1174
which the trust recognizes the qualifying trust amount. 1175

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1176
section, "upper level pass-through entity" means a pass-through 1177
entity directly or indirectly owning any equity of another pass- 1178
through entity, and "lower level pass-through entity" means that 1179
other pass-through entity. 1180

An upper level pass-through entity, whether or not it is 1181

also a qualifying investee, is deemed to own, on the last day of 1182
the upper level pass-through entity's calendar or fiscal year, 1183
the proportionate share of the lower level pass-through entity's 1184
physical assets that the lower level pass-through entity 1185
directly or indirectly owns on the last day of the lower level 1186
pass-through entity's calendar or fiscal year ending within or 1187
with the last day of the upper level pass-through entity's 1188
fiscal or calendar year. If the upper level pass-through entity 1189
directly and indirectly owns less than fifty per cent of the 1190
equity of the lower level pass-through entity on each day of the 1191
upper level pass-through entity's calendar or fiscal year in 1192
which or with which ends the calendar or fiscal year of the 1193
lower level pass-through entity and if, based upon clear and 1194
convincing evidence, complete information about the location and 1195
cost of the physical assets of the lower pass-through entity is 1196
not available to the upper level pass-through entity, then 1197
solely for purposes of ascertaining if a gain or loss 1198
constitutes a qualifying trust amount, the upper level pass- 1199
through entity shall be deemed as owning no equity of the lower 1200
level pass-through entity for each day during the upper level 1201
pass-through entity's calendar or fiscal year in which or with 1202
which ends the lower level pass-through entity's calendar or 1203
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1204
shall be construed to provide for any deduction or exclusion in 1205
computing any trust's Ohio taxable income. 1206

(b) With respect to a trust that is not a resident for the 1207
taxable year and with respect to a part of a trust that is not a 1208
resident for the taxable year, "qualifying investee" for that 1209
taxable year does not include a C corporation if both of the 1210
following apply: 1211

(i) During the taxable year the trust or part of the trust 1212

recognizes a gain or loss from the sale, exchange, or other 1213
disposition of equity or ownership interests in, or debt 1214
obligations of, the C corporation. 1215

(ii) Such gain or loss constitutes nonbusiness income. 1216

(6) "Available" means information is such that a person is 1217
able to learn of the information by the due date plus 1218
extensions, if any, for filing the return for the taxable year 1219
in which the trust recognizes the gain or loss. 1220

(BB) "Qualifying controlled group" has the same meaning as 1221
in section 5733.04 of the Revised Code. 1222

(CC) "Related member" has the same meaning as in section 1223
5733.042 of the Revised Code. 1224

(DD) (1) For the purposes of division (DD) of this section: 1225

(a) "Qualifying person" means any person other than a 1226
qualifying corporation. 1227

(b) "Qualifying corporation" means any person classified 1228
for federal income tax purposes as an association taxable as a 1229
corporation, except either of the following: 1230

(i) A corporation that has made an election under 1231
subchapter S, chapter one, subtitle A, of the Internal Revenue 1232
Code for its taxable year ending within, or on the last day of, 1233
the investor's taxable year; 1234

(ii) A subsidiary that is wholly owned by any corporation 1235
that has made an election under subchapter S, chapter one, 1236
subtitle A of the Internal Revenue Code for its taxable year 1237
ending within, or on the last day of, the investor's taxable 1238
year. 1239

(2) For the purposes of this chapter, unless expressly 1240
stated otherwise, no qualifying person indirectly owns any asset 1241
directly or indirectly owned by any qualifying corporation. 1242

(EE) For purposes of this chapter and Chapter 5751. of the 1243
Revised Code: 1244

(1) "Trust" does not include a qualified pre-income tax 1245
trust. 1246

(2) A "qualified pre-income tax trust" is any pre-income 1247
tax trust that makes a qualifying pre-income tax trust election 1248
as described in division (EE) (3) of this section. 1249

(3) A "qualifying pre-income tax trust election" is an 1250
election by a pre-income tax trust to subject to the tax imposed 1251
by section 5751.02 of the Revised Code the pre-income tax trust 1252
and all pass-through entities of which the trust owns or 1253
controls, directly, indirectly, or constructively through 1254
related interests, five per cent or more of the ownership or 1255
equity interests. The trustee shall notify the tax commissioner 1256
in writing of the election on or before April 15, 2006. The 1257
election, if timely made, shall be effective on and after 1258
January 1, 2006, and shall apply for all tax periods and tax 1259
years until revoked by the trustee of the trust. 1260

(4) A "pre-income tax trust" is a trust that satisfies all 1261
of the following requirements: 1262

(a) The document or instrument creating the trust was 1263
executed by the grantor before January 1, 1972; 1264

(b) The trust became irrevocable upon the creation of the 1265
trust; and 1266

(c) The grantor was domiciled in this state at the time 1267

the trust was created. 1268

(FF) "Uniformed services" has the same meaning as in 10 1269
U.S.C. 101. 1270

(GG) "Taxable business income" means the amount by which 1271
an individual's business income that is included in federal 1272
adjusted gross income exceeds the amount of business income the 1273
individual is authorized to deduct under division ~~(A) (31)~~ (A) 1274
(28) of this section for the taxable year. 1275

(HH) "Employer" does not include a franchisor with respect 1276
to the franchisor's relationship with a franchisee or an 1277
employee of a franchisee, unless the franchisor agrees to assume 1278
that role in writing or a court of competent jurisdiction 1279
determines that the franchisor exercises a type or degree of 1280
control over the franchisee or the franchisee's employees that 1281
is not customarily exercised by a franchisor for the purpose of 1282
protecting the franchisor's trademark, brand, or both. For 1283
purposes of this division, "franchisor" and "franchisee" have 1284
the same meanings as in 16 C.F.R. 436.1. 1285

(II) "Modified adjusted gross income" means Ohio adjusted 1286
gross income plus any amount deducted under division (A) (28) of 1287
this section for the taxable year. 1288

(JJ) "Qualifying Ohio educator" means an individual who, 1289
for a taxable year, qualifies as an eligible educator, as that 1290
term is defined in section 62 of the Internal Revenue Code, and 1291
who holds a certificate, license, or permit described in Chapter 1292
3319. or section 3301.071 of the Revised Code. 1293

Sec. 5747.10. (A) As used in this section: 1294

(1) "Audited partnership" means a partnership subject to 1295
an examination by the internal revenue service pursuant to 1296

subchapter C, chapter 63, subtitle F of the Internal Revenue Code resulting in a federal adjustment.	1297 1298
(2) (a) "Direct investor" means a partner or other investor that holds a direct interest in a pass-through entity.	1299 1300
(b) "Indirect investor" means a partner or other investor that holds an interest in a pass-through entity that itself holds an interest, directly or through another indirect partner or other investor, in a pass-through entity.	1301 1302 1303 1304
(3) "Exempt partner" means a partner that is neither a pass-through entity nor a person subject to the tax imposed by section 5747.02 of the Revised Code.	1305 1306 1307
(4) "Federal adjustment" means a change to an item or amount required to be determined under the Internal Revenue Code that directly or indirectly affects a taxpayer's aggregate tax liability under section 5747.02 or Chapter 5748. of the Revised Code and that results from an action or examination by the internal revenue service, or from the filing of an amended federal tax return, a claim for a federal tax refund, or an administrative adjustment request filed by a partnership under section 6227 of the Internal Revenue Code.	1308 1309 1310 1311 1312 1313 1314 1315 1316
(5) "Federal adjustments return" means the form or other document prescribed by the tax commissioner for use by a taxpayer in reporting final federal adjustments.	1317 1318 1319
(6) "State partnership representative" means either of the following:	1320 1321
(a) The person who served as the partnership's representative for federal income tax purposes, pursuant to section 6223(a) of the Internal Revenue Code, during the corresponding federal partnership audit;	1322 1323 1324 1325

(b) The person designated, on a form prescribed by the tax commissioner, to serve as the partnership's representative during the state partnership audit. The commissioner may establish reasonable qualifications and procedures for a person to be designated as a state partnership representative under this division.

(7) A federal adjustment is "final" or "agreed to or finally determined for federal income tax purposes" on any of the following:

(a) The day after which the period for appeal of a federal assessment has expired;

(b) The date on a refund check issued by the internal revenue service; or

(c) For agreements required to be signed by the internal revenue service and the taxpayer or audited partnership, the date on which the last party signed the agreement.

(B)(1) If any of the facts, figures, computations, or attachments required in a taxpayer's annual return to determine the tax charged by this chapter or Chapter 5748. of the Revised Code must be altered as the result of a final federal adjustment, and the federal adjustment is not required to be reported under division (C) of this section, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than ninety days after the federal adjustment has been agreed to or finally determined for federal income tax purposes.

(2) "One hundred eighty" shall be substituted for "ninety" in divisions (B)(1) and (E)(1) of this section if, for any taxable year, the final federal adjustment results from taxes

paid by the taxpayer on an amount described in division ~~(A)(34)~~ 1355
(A)(32) of section 5747.01 of the Revised Code. 1356

(C) Except for adjustments required to be reported for 1357
federal purposes pursuant to section 6225(a)(2) of the Internal 1358
Revenue Code and adjustments that are taken into account on a 1359
federal amended return or similar report filed pursuant to 1360
section 6225(c)(2) of the Internal Revenue Code, partnerships 1361
and partners shall report final federal adjustments and make 1362
payments as required under division (C) of this section. 1363

(1) With respect to an action required or permitted to be 1364
taken by a partnership under this section, and any petition for 1365
reassessment or appeal to the board of tax appeals or any court 1366
with respect to such an action, the state partnership 1367
representative shall have the sole authority to act on behalf of 1368
the audited partnership, and the partnership's direct and 1369
indirect investors shall be bound by those actions. 1370

(2) Unless an audited partnership makes the election under 1371
division (C)(3) of this section: 1372

(a) The audited partnership, through its state partnership 1373
representative, shall do all of the following within ninety days 1374
after the federal adjustment is final: 1375

(i) File a federal adjustments return with the tax 1376
commissioner, including a copy of the notifications provided 1377
under division (C)(2)(a)(ii) of this section; 1378

(ii) Notify each of its direct investors, on a form 1379
prescribed by the commissioner, of the investor's distributive 1380
share of the final federal adjustments; 1381

(iii) File an amended tax return on behalf of its 1382
nonresident direct investors and pay any additional tax that 1383

would have been due under sections 5733.41 and 5747.41, or 1384
division (D) of section 5747.08, of the Revised Code with 1385
respect to those direct investors had the final federal 1386
adjustments been reported properly on the original filing. 1387

(b) Each direct investor that is subject to the tax 1388
imposed by section 5747.02 of the Revised Code shall file an 1389
original or amended tax return to include the investor's 1390
distributive share of the adjustments reported to the direct 1391
investor under division (C) (2) (a) of this section, and pay any 1392
additional tax due, within ninety days after the audited 1393
partnership files its federal adjustments return with the 1394
commissioner. 1395

(c) (i) Each direct and indirect investor of an audited 1396
partnership that is a pass-through entity and all investors in 1397
such a pass-through entity that are subject to the filing and 1398
payment requirements of Chapters 5733. and 5747. of the Revised 1399
Code are subject to the reporting and payment requirements of 1400
division (C) (2) or, upon a timely election, division (C) (3) of 1401
this section. 1402

(ii) Such direct and indirect investors shall make the 1403
required returns and payments within ninety days after the 1404
deadline for filing and furnishing statements under section 1405
6226(b) (4) of the Internal Revenue Code and applicable treasury 1406
regulations. 1407

(3) If an audited partnership makes the election under 1408
this division, the audited partnership, through its state 1409
partnership representative, shall do all of the following within 1410
ninety days after all federal adjustments are final: 1411

(a) File a federal adjustments return with the tax 1412

commissioner indicating the partnership has made the election 1413
under division (C) (3) of this section; 1414

(b) Pay the amount of combined additional tax due under 1415
division (D) (2) of this section, calculated by multiplying the 1416
highest rate of tax set forth in section 5747.02 of the Revised 1417
Code by the sum of the following: 1418

(i) The distributive shares of the final federal 1419
adjustments that are allocable or apportionable to this state of 1420
each investor who is a nonresident taxpayer or pass-through 1421
entity; 1422

(ii) The distributive share of the final federal 1423
adjustments for each investor who is a resident taxpayer. 1424

(c) Notify each of its direct investors, on a form 1425
prescribed by the commissioner, of the investor's distributive 1426
share of the final federal adjustments and the amount paid on 1427
their behalf pursuant to division (C) (3) (b) of this section. 1428

(4) (a) A direct investor of an audited partnership is not 1429
required to file an amended return or pay tax otherwise due 1430
under section 5747.02 of the Revised Code if the audited 1431
partnership properly reports and pays the tax under division (C) 1432
(3) of this section. 1433

(b) (i) Nothing in division (C) of this section precludes a 1434
direct or indirect investor in the audited partnership from 1435
filing a return to report the investor's share of the final 1436
federal adjustments. Such an investor who files a return and 1437
reports the income related to the final federal adjustments is 1438
entitled to a refundable credit for taxes paid by the audited 1439
partnership under division (C) (3) (b) of this section. The credit 1440
shall be computed and claimed in the same manner as the credit 1441

allowed under division (I) of section 5747.08 of the Revised Code. 1442
1443

(ii) Notwithstanding division (C) (4) (b) (i) of this section, an exempt partner, whether a direct or indirect investor, may file an application for refund of its proportionate share of the amounts erroneously paid by the audited partnership pursuant to division (C) (3) (b) of this section on the exempt partner's behalf. 1444
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(5) Upon request by an audited partnership, the tax commissioner may agree, in writing, to allow an alternative method of reporting and payment than required by ~~divisions~~ division (C) (2) or (3) of this section. The request must be submitted to the commissioner in writing before the applicable deadline for filing a return under division (C) (2) (a) or (3) of this section. The commissioner's decision on whether to enter into an agreement under this division is not subject to further administrative review or appeal. 1450
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(6) Nothing in division (C) of this section precludes either of the following: 1459
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(a) A resident taxpayer from filing a return to claim the credit under division (B) of section 5747.05 or division (D) (2) of section 5747.02 of the Revised Code based upon any amounts paid by the audited partnership on such investor's behalf to another state. 1461
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(b) The tax commissioner from issuing an assessment under this chapter against any direct or indirect investor for taxes due from the investor if an audited partnership, or direct and indirect investor of an audited partnership that is a pass-through entity, fails to timely file any return or remit any 1466
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payment required by this section or underreports income or 1471
underpays tax on behalf of an indirect investor who is a 1472
resident taxpayer. 1473

(D) In the case of an underpayment, and unless otherwise 1474
agreed to in writing by the tax commissioner: 1475

(1) The taxpayer's amended return shall be accompanied by 1476
payment of any combined additional tax due together with 1477
interest thereon. An amended return required by this section is 1478
a return subject to assessment under section 5747.13 of the 1479
Revised Code for the purpose of assessing any additional tax due 1480
under this section, together with any applicable penalty and 1481
interest. It shall not reopen those facts, figures, 1482
computations, or attachments from a previously filed return no 1483
longer subject to assessment that are not affected, either 1484
directly or indirectly, by the final federal adjustment to the 1485
taxpayer's federal income tax return. 1486

(2) The audited partnership's federal adjustments return 1487
shall be accompanied by payment of any combined additional tax 1488
due together with interest thereon. The federal adjustments 1489
return required by this section is a return subject to 1490
assessment under section 5747.13 of the Revised Code for the 1491
purpose of assessing any additional tax due under this section, 1492
together with any applicable penalty and interest. It shall not 1493
reopen those facts, figures, computations, or attachments from a 1494
previously filed return no longer subject to assessment that are 1495
not affected, either directly or indirectly, by the final 1496
federal adjustment. 1497

(3) The tax commissioner may accept estimated payments of 1498
the tax arising from pending federal adjustments before the date 1499
for filing a federal adjustments return. The commissioner may 1500

adopt rules for the payment of such estimated taxes. 1501

(E) In the case of an overpayment, and unless otherwise 1502
agreed to in writing by the tax commissioner: 1503

(1) A taxpayer may file an application for refund under 1504
this division within the ninety-day period prescribed for filing 1505
the amended return even if it is filed beyond the period 1506
prescribed in section 5747.11 of the Revised Code if it 1507
otherwise conforms to the requirements of such section. An 1508
application filed under this division shall claim refund of 1509
overpayments resulting from alterations to only those facts, 1510
figures, computations, or attachments required in the taxpayer's 1511
annual return that are affected, either directly or indirectly, 1512
by the final federal adjustment to the taxpayer's federal income 1513
tax return unless it is also filed within the time prescribed in 1514
section 5747.11 of the Revised Code. It shall not reopen those 1515
facts, figures, computations, or attachments that are not 1516
affected, either directly or indirectly, by the adjustment to 1517
the taxpayer's federal income tax return. 1518

(2) (a) Except as otherwise provided in division (E) (2) (b) 1519
of this section, an audited partnership may file an application 1520
for a refund under this division within the ninety-day period 1521
prescribed for filing the federal adjustments return, even if it 1522
is filed beyond the period prescribed by section 5747.11 of the 1523
Revised Code, if it otherwise conforms to the requirements of 1524
that section. An application filed under this division may claim 1525
a refund of overpayments resulting only from final federal 1526
adjustments unless it is also filed within the time prescribed 1527
by section 5747.11 of the Revised Code. It shall not reopen 1528
those facts, figures, computations, or attachments that are not 1529
affected, either directly or indirectly, by the federal 1530

adjustment. 1531

(b) An audited partnership may not file an application for 1532
refund under division (E) of this section based on final federal 1533
adjustments described in section 6225(a)(2) of the Internal 1534
Revenue Code. 1535

(3) Any refund granted to a pass-through entity filing an 1536
application for refund under division (E) of this section shall 1537
be reduced by amounts previously claimed as a credit under 1538
section 5747.059 or division (I) of section 5747.08 of the 1539
Revised Code by the pass-through entity's direct or indirect 1540
investors. 1541

(F) Excluding the deadline in division (C)(2)(c)(ii) of 1542
this section, an audited partnership, or a direct or indirect 1543
investor of an audited partnership that is a pass-through 1544
entity, may automatically extend the deadline for reporting, 1545
payments, and refunds under this section by sixty days if the 1546
entity has ten thousand or more direct investors and notifies 1547
the commissioner of such extension, in writing, before the 1548
unextended deadline. 1549

Section 2. That existing sections 5747.01 and 5747.10 of 1550
the Revised Code are hereby repealed. 1551

Section 3. This act shall be known as the "First-time Home 1552
Buyer Savings Act." 1553

Section 4. Section 5747.01 of the Revised Code is 1554
presented in this act as a composite of the section as amended 1555
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 1556
General Assembly. The General Assembly, applying the principle 1557
stated in division (B) of section 1.52 of the Revised Code that 1558
amendments are to be harmonized if reasonably capable of 1559

simultaneous operation, finds that the composite is the	1560
resulting version of the section in effect prior to the	1561
effective date of the section as presented in this act.	1562