

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 129

Representative Barnes

Cosponsors: Representatives Patmon, Sweeney

A BILL

To amend section 5747.01 and to enact section
3701.139 of the Revised Code to establish the
Hope for a Smile Program.

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

Section 1. That section 5747.01 be amended and section
3701.139 of the Revised Code be enacted to read as follows:

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Sec. 3701.139. (A) The hope for a smile program is hereby
established. The primary objective of the program is to improve
the oral health of school-age children, which the general
assembly declares to be one of the most unmet health care needs
of this state. Services provided under the program shall be
targeted at school-age children who are indigent and uninsured,
although other children may be served. The hope for a smile
advisory council established under division (H) of this section
may recommend additional populations to be targeted.

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(B) The program shall be operated as a collaboration
between the department of health and the following:

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(1) The Ohio dental association;

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<u>(2) The Ohio dental hygienists' association;</u>	18
<u>(3) The Ohio state university college of dentistry and the dental hygiene program at that college;</u>	19 20
<u>(4) Case western reserve university school of dental medicine;</u>	21 22
<u>(5) Shawnee state university;</u>	23
<u>(6) James A. Rhodes state college;</u>	24
<u>(7) Columbus state community college;</u>	25
<u>(8) Cuyahoga community college, metropolitan campus;</u>	26
<u>(9) Youngstown state university;</u>	27
<u>(10) Lorain county community college;</u>	28
<u>(11) Lakeland community college;</u>	29
<u>(12) University of Cincinnati;</u>	30
<u>(13) Sinclair community college;</u>	31
<u>(14) Owens community college;</u>	32
<u>(15) Stark state college.</u>	33
<u>(C) With assistance from the director of administrative services and using the state's purchasing power, the director of health shall use money from one or more of the following sources to purchase or secure the use of, maintain, and operate three buses equipped as mobile dental units:</u>	34 35 36 37 38
<u>(1) The economic development programs fund created under section 3772.17 of the Revised Code;</u>	39 40
<u>(2) The hope for a smile program fund created under division (G) of this section;</u>	41 42

(3) Any other source of public funds that the director of administrative services or director of health determines is available and may be used for the program. 43
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(D) The director of health shall divide the state into a northern region, a central region, and a southern region. The director shall assign one bus to each region. 46
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Dentists, dental hygienists, and the faculty and staff of the dentistry and dental hygiene educational programs of this state shall staff each bus. The faculty and staff of the educational programs may permit students enrolled in the programs to participate in staffing the buses. 49
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The individuals staffing each bus shall travel to the schools located in the region assigned to each bus. In scheduling visits to those schools, priority shall be given to schools that are attended by high numbers of children who are in the program's targeted population. During each visit, the individuals who provide services to the children shall provide the services in accordance with their authority to practice under Chapter 4715. of the Revised Code. 54
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(E) Dentists and dental hygienists who provide services free of charge under the program may deduct the fair market value of those services in computing Ohio adjusted gross income under section 5747.01 of the Revised Code. 62
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Participation in the program by students of dentistry and dental hygiene educational programs in this state shall be recognized by the governor and the general assembly as a workforce and economic development initiative. 66
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(F) The director of health shall apply on the program's behalf to the department of medicaid for a medicaid provider 70
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agreement. The director shall make arrangements with private 72
entities that provide health care insurance or other forms of 73
health care coverage in this state as the director considers 74
necessary for the program to be reimbursed for services provided 75
to children who have health care insurance or coverage through 76
those entities. 77

(G) The program may accept grants, donations, and awards. 78
The program may seek payments from the medicaid program for 79
services provided to children who are medicaid recipients. The 80
program may seek reimbursement from private entities that 81
provide health care insurance or other forms of health care 82
coverage for services provided to children who have insurance or 83
coverage through those. The program may apply for money 84
allocated by the United States department of labor or other 85
entities for workforce or economic development initiatives. 86

Any amounts received from a source described in this 87
division shall be deposited into the state treasury to the 88
credit of the hope for a smile program fund, which is hereby 89
created. Any interest earned on money in the fund shall be 90
credited to the fund. The amounts credited to the fund shall be 91
used solely to pay the costs of the program. 92

(H) The director of health shall establish an advisory 93
council, to be known as the hope for a smile advisory council, 94
to advise the director on matters regarding the implementation 95
and administration of the program. The director shall appoint 96
the council's members, which shall include representatives of 97
the Ohio dental association, the Ohio dental hygienists' 98
association, the Ohio state university college of dentistry and 99
the dental hygiene program at that college, the case western 100
reserve university school of dental medicine, the Ohio council 101

of dental hygiene directors, and other entities considered 102
appropriate by the director. 103

(I) In consultation with the hope for a smile advisory 104
council, the director of health shall adopt rules as the 105
director considers necessary to implement and administer this 106
section. The rules shall be adopted in accordance with Chapter 107
119. of the Revised Code. 108

(J) Not later than the first day of July each year, the 109
director of health, with input from the hope for a smile 110
advisory council, shall prepare a report on progress the program 111
has made in achieving the objective expressed in division (A) of 112
this section, saving money for the medicaid program and other 113
safety net programs, and promoting workforce and economic 114
development in this state. The director shall submit each report 115
to the governor and, in accordance with section 101.68 of the 116
Revised Code, to the general assembly. 117

Sec. 5747.01. Except as otherwise expressly provided or 118
clearly appearing from the context, any term used in this 119
chapter that is not otherwise defined in this section has the 120
same meaning as when used in a comparable context in the laws of 121
the United States relating to federal income taxes or if not 122
used in a comparable context in those laws, has the same meaning 123
as in section 5733.40 of the Revised Code. Any reference in this 124
chapter to the Internal Revenue Code includes other laws of the 125
United States relating to federal income taxes. 126

As used in this chapter: 127

(A) "Adjusted gross income" or "Ohio adjusted gross 128
income" means federal adjusted gross income, as defined and used 129
in the Internal Revenue Code, adjusted as provided in this 130

section:	131
(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.	132 133 134 135
(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.	136 137 138 139 140
(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.	141 142 143 144 145 146
(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.	147 148
(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.	149 150 151 152
(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is	153 154 155 156 157 158 159

made to the extent that the portion was not included in the 160
trust's taxable income for any of the trust's taxable years 161
beginning in 2002 or thereafter. "Undistributed net income of a 162
trust" means the taxable income of the trust increased by (a) (i) 163
the additions to adjusted gross income required under division 164
(A) of this section and (ii) the personal exemptions allowed to 165
the trust pursuant to section 642(b) of the Internal Revenue 166
Code, and decreased by (b) (i) the deductions to adjusted gross 167
income required under division (A) of this section, (ii) the 168
amount of federal income taxes attributable to such income, and 169
(iii) the amount of taxable income that has been included in the 170
adjusted gross income of a beneficiary by reason of a prior 171
accumulation distribution. Any undistributed net income included 172
in the adjusted gross income of a beneficiary shall reduce the 173
undistributed net income of the trust commencing with the 174
earliest years of the accumulation period. 175

(7) Deduct the amount of wages and salaries, if any, not 176
otherwise allowable as a deduction but that would have been 177
allowable as a deduction in computing federal adjusted gross 178
income for the taxable year, had the targeted jobs credit 179
allowed and determined under sections 38, 51, and 52 of the 180
Internal Revenue Code not been in effect. 181

(8) Deduct any interest or interest equivalent on public 182
obligations and purchase obligations to the extent that the 183
interest or interest equivalent is included in federal adjusted 184
gross income. 185

(9) Add any loss or deduct any gain resulting from the 186
sale, exchange, or other disposition of public obligations to 187
the extent that the loss has been deducted or the gain has been 188
included in computing federal adjusted gross income. 189

(10) Deduct or add amounts, as provided under section 190
5747.70 of the Revised Code, related to contributions to 191
variable college savings program accounts made or tuition units 192
purchased pursuant to Chapter 3334. of the Revised Code. 193

(11) (a) Deduct, to the extent not otherwise allowable as a 194
deduction or exclusion in computing federal or Ohio adjusted 195
gross income for the taxable year, the amount the taxpayer paid 196
during the taxable year for medical care insurance and qualified 197
long-term care insurance for the taxpayer, the taxpayer's 198
spouse, and dependents. No deduction for medical care insurance 199
under division (A) (11) of this section shall be allowed either 200
to any taxpayer who is eligible to participate in any subsidized 201
health plan maintained by any employer of the taxpayer or of the 202
taxpayer's spouse, or to any taxpayer who is entitled to, or on 203
application would be entitled to, benefits under part A of Title 204
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 205
U.S.C. 301, as amended. For the purposes of division (A) (11) (a) 206
of this section, "subsidized health plan" means a health plan 207
for which the employer pays any portion of the plan's cost. The 208
deduction allowed under division (A) (11) (a) of this section 209
shall be the net of any related premium refunds, related premium 210
reimbursements, or related insurance premium dividends received 211
during the taxable year. 212

(b) Deduct, to the extent not otherwise deducted or 213
excluded in computing federal or Ohio adjusted gross income 214
during the taxable year, the amount the taxpayer paid during the 215
taxable year, not compensated for by any insurance or otherwise, 216
for medical care of the taxpayer, the taxpayer's spouse, and 217
dependents, to the extent the expenses exceed seven and one-half 218
per cent of the taxpayer's federal adjusted gross income. 219

(c) Deduct, to the extent not otherwise deducted or 220
excluded in computing federal or Ohio adjusted gross income, any 221
amount included in federal adjusted gross income under section 222
105 or not excluded under section 106 of the Internal Revenue 223
Code solely because it relates to an accident and health plan 224
for a person who otherwise would be a "qualifying relative" and 225
thus a "dependent" under section 152 of the Internal Revenue 226
Code but for the fact that the person fails to meet the income 227
and support limitations under section 152(d)(1)(B) and (C) of 228
the Internal Revenue Code. 229

(d) For purposes of division (A)(11) of this section, 230
"medical care" has the meaning given in section 213 of the 231
Internal Revenue Code, subject to the special rules, 232
limitations, and exclusions set forth therein, and "qualified 233
long-term care" has the same meaning given in section 7702B(c) 234
of the Internal Revenue Code. Solely for purposes of divisions 235
(A)(11)(a) and (c) of this section, "dependent" includes a 236
person who otherwise would be a "qualifying relative" and thus a 237
"dependent" under section 152 of the Internal Revenue Code but 238
for the fact that the person fails to meet the income and 239
support limitations under section 152(d)(1)(B) and (C) of the 240
Internal Revenue Code. 241

(12)(a) Deduct any amount included in federal adjusted 242
gross income solely because the amount represents a 243
reimbursement or refund of expenses that in any year the 244
taxpayer had deducted as an itemized deduction pursuant to 245
section 63 of the Internal Revenue Code and applicable United 246
States department of the treasury regulations. The deduction 247
otherwise allowed under division (A)(12)(a) of this section 248
shall be reduced to the extent the reimbursement is attributable 249
to an amount the taxpayer deducted under this section in any 250

taxable year.	251
(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.	252 253 254 255 256
(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:	257 258 259 260
(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;	261 262 263 264
(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.	265 266
(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.	267 268 269 270 271 272 273
(15) (a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;	274 275 276 277 278 279

(b) Add the amounts distributed from a medical savings account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year.	280 281 282
(16) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following:	283 284 285
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	286 287 288 289
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	290 291 292
(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (17) of this section.	293 294 295 296 297 298 299 300
(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for	301 302 303 304 305 306 307 308

qualified tuition and fees paid to an eligible institution for 309
the taxpayer, the taxpayer's spouse, or any dependent of the 310
taxpayer, who is a resident of this state and is enrolled in or 311
attending a program that culminates in a degree or diploma at an 312
eligible institution. The deduction may be claimed only to the 313
extent that qualified tuition and fees are not otherwise 314
deducted or excluded for any taxable year from federal or Ohio 315
adjusted gross income. The deduction may not be claimed for 316
educational expenses for which the taxpayer claims a credit 317
under section 5747.27 of the Revised Code. 318

(19) Add any reimbursement received during the taxable 319
year of any amount the taxpayer deducted under division (A) (18) 320
of this section in any previous taxable year to the extent the 321
amount is not otherwise included in Ohio adjusted gross income. 322

(20) (a) (i) Subject to divisions (A) (20) (a) (iii), (iv), and 323
(v) of this section, add five-sixths of the amount of 324
depreciation expense allowed by subsection (k) of section 168 of 325
the Internal Revenue Code, including the taxpayer's 326
proportionate or distributive share of the amount of 327
depreciation expense allowed by that subsection to a pass- 328
through entity in which the taxpayer has a direct or indirect 329
ownership interest. 330

(ii) Subject to divisions (A) (20) (a) (iii), (iv), and (v) 331
of this section, add five-sixths of the amount of qualifying 332
section 179 depreciation expense, including the taxpayer's 333
proportionate or distributive share of the amount of qualifying 334
section 179 depreciation expense allowed to any pass-through 335
entity in which the taxpayer has a direct or indirect ownership 336
interest. 337

(iii) Subject to division (A) (20) (a) (v) of this section, 338

for taxable years beginning in 2012 or thereafter, if the 339
increase in income taxes withheld by the taxpayer is equal to or 340
greater than ten per cent of income taxes withheld by the 341
taxpayer during the taxpayer's immediately preceding taxable 342
year, "two-thirds" shall be substituted for "five-sixths" for 343
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 344

(iv) Subject to division (A) (20) (a) (v) of this section, 345
for taxable years beginning in 2012 or thereafter, a taxpayer is 346
not required to add an amount under division (A) (20) of this 347
section if the increase in income taxes withheld by the taxpayer 348
and by any pass-through entity in which the taxpayer has a 349
direct or indirect ownership interest is equal to or greater 350
than the sum of (I) the amount of qualifying section 179 351
depreciation expense and (II) the amount of depreciation expense 352
allowed to the taxpayer by subsection (k) of section 168 of the 353
Internal Revenue Code, and including the taxpayer's 354
proportionate or distributive shares of such amounts allowed to 355
any such pass-through entities. 356

(v) If a taxpayer directly or indirectly incurs a net 357
operating loss for the taxable year for federal income tax 358
purposes, to the extent such loss resulted from depreciation 359
expense allowed by subsection (k) of section 168 of the Internal 360
Revenue Code and by qualifying section 179 depreciation expense, 361
"the entire" shall be substituted for "five-sixths of the" for 362
the purpose of divisions (A) (20) (a) (i) and (ii) of this section. 363

The tax commissioner, under procedures established by the 364
commissioner, may waive the add-backs related to a pass-through 365
entity if the taxpayer owns, directly or indirectly, less than 366
five per cent of the pass-through entity. 367

(b) Nothing in division (A) (20) of this section shall be 368

construed to adjust or modify the adjusted basis of any asset. 369

(c) To the extent the add-back required under division (A) 370
(20)(a) of this section is attributable to property generating 371
nonbusiness income or loss allocated under section 5747.20 of 372
the Revised Code, the add-back shall be situated to the same 373
location as the nonbusiness income or loss generated by the 374
property for the purpose of determining the credit under 375
division (A) of section 5747.05 of the Revised Code. Otherwise, 376
the add-back shall be apportioned, subject to one or more of the 377
four alternative methods of apportionment enumerated in section 378
5747.21 of the Revised Code. 379

(d) For the purposes of division (A) (20) (a) (v) of this 380
section, net operating loss carryback and carryforward shall not 381
include the allowance of any net operating loss deduction 382
carryback or carryforward to the taxable year to the extent such 383
loss resulted from depreciation allowed by section 168(k) of the 384
Internal Revenue Code and by the qualifying section 179 385
depreciation expense amount. 386

(e) For the purposes of divisions (A) (20) and (21) of this 387
section: 388

(i) "Income taxes withheld" means the total amount 389
withheld and remitted under sections 5747.06 and 5747.07 of the 390
Revised Code by an employer during the employer's taxable year. 391

(ii) "Increase in income taxes withheld" means the amount 392
by which the amount of income taxes withheld by an employer 393
during the employer's current taxable year exceeds the amount of 394
income taxes withheld by that employer during the employer's 395
immediately preceding taxable year. 396

(iii) "Qualifying section 179 depreciation expense" means 397

the difference between (I) the amount of depreciation expense 398
directly or indirectly allowed to a taxpayer under section 179 399
of the Internal Revised Code, and (II) the amount of 400
depreciation expense directly or indirectly allowed to the 401
taxpayer under section 179 of the Internal Revenue Code as that 402
section existed on December 31, 2002. 403

(21) (a) If the taxpayer was required to add an amount 404
under division (A) (20) (a) of this section for a taxable year, 405
deduct one of the following: 406

(i) One-fifth of the amount so added for each of the five 407
succeeding taxable years if the amount so added was five-sixths 408
of qualifying section 179 depreciation expense or depreciation 409
expense allowed by subsection (k) of section 168 of the Internal 410
Revenue Code; 411

(ii) One-half of the amount so added for each of the two 412
succeeding taxable years if the amount so added was two-thirds 413
of such depreciation expense; 414

(iii) One-sixth of the amount so added for each of the six 415
succeeding taxable years if the entire amount of such 416
depreciation expense was so added. 417

(b) If the amount deducted under division (A) (21) (a) of 418
this section is attributable to an add-back allocated under 419
division (A) (20) (c) of this section, the amount deducted shall 420
be situated to the same location. Otherwise, the add-back shall 421
be apportioned using the apportionment factors for the taxable 422
year in which the deduction is taken, subject to one or more of 423
the four alternative methods of apportionment enumerated in 424
section 5747.21 of the Revised Code. 425

(c) No deduction is available under division (A) (21) (a) of 426

this section with regard to any depreciation allowed by section 427
168(k) of the Internal Revenue Code and by the qualifying 428
section 179 depreciation expense amount to the extent that such 429
depreciation results in or increases a federal net operating 430
loss carryback or carryforward. If no such deduction is 431
available for a taxable year, the taxpayer may carry forward the 432
amount not deducted in such taxable year to the next taxable 433
year and add that amount to any deduction otherwise available 434
under division (A) (21) (a) of this section for that next taxable 435
year. The carryforward of amounts not so deducted shall continue 436
until the entire addition required by division (A) (20) (a) of 437
this section has been deducted. 438

(d) No refund shall be allowed as a result of adjustments 439
made by division (A) (21) of this section. 440

(22) Deduct, to the extent not otherwise deducted or 441
excluded in computing federal or Ohio adjusted gross income for 442
the taxable year, the amount the taxpayer received during the 443
taxable year as reimbursement for life insurance premiums under 444
section 5919.31 of the Revised Code. 445

(23) Deduct, to the extent not otherwise deducted or 446
excluded in computing federal or Ohio adjusted gross income for 447
the taxable year, the amount the taxpayer received during the 448
taxable year as a death benefit paid by the adjutant general 449
under section 5919.33 of the Revised Code. 450

(24) Deduct, to the extent included in federal adjusted 451
gross income and not otherwise allowable as a deduction or 452
exclusion in computing federal or Ohio adjusted gross income for 453
the taxable year, military pay and allowances received by the 454
taxpayer during the taxable year for active duty service in the 455
United States army, air force, navy, marine corps, or coast 456

guard or reserve components thereof or the national guard. The 457
deduction may not be claimed for military pay and allowances 458
received by the taxpayer while the taxpayer is stationed in this 459
state. 460

(25) Deduct, to the extent not otherwise allowable as a 461
deduction or exclusion in computing federal or Ohio adjusted 462
gross income for the taxable year and not otherwise compensated 463
for by any other source, the amount of qualified organ donation 464
expenses incurred by the taxpayer during the taxable year, not 465
to exceed ten thousand dollars. A taxpayer may deduct qualified 466
organ donation expenses only once for all taxable years 467
beginning with taxable years beginning in 2007. 468

For the purposes of division (A) (25) of this section: 469

(a) "Human organ" means all or any portion of a human 470
liver, pancreas, kidney, intestine, or lung, and any portion of 471
human bone marrow. 472

(b) "Qualified organ donation expenses" means travel 473
expenses, lodging expenses, and wages and salary forgone by a 474
taxpayer in connection with the taxpayer's donation, while 475
living, of one or more of the taxpayer's human organs to another 476
human being. 477

(26) Deduct, to the extent not otherwise deducted or 478
excluded in computing federal or Ohio adjusted gross income for 479
the taxable year, amounts received by the taxpayer as retired 480
personnel pay for service in the uniformed services or reserve 481
components thereof, or the national guard, or received by the 482
surviving spouse or former spouse of such a taxpayer under the 483
survivor benefit plan on account of such a taxpayer's death. If 484
the taxpayer receives income on account of retirement paid under 485

the federal civil service retirement system or federal employees 486
retirement system, or under any successor retirement program 487
enacted by the congress of the United States that is established 488
and maintained for retired employees of the United States 489
government, and such retirement income is based, in whole or in 490
part, on credit for the taxpayer's uniformed service, the 491
deduction allowed under this division shall include only that 492
portion of such retirement income that is attributable to the 493
taxpayer's uniformed service, to the extent that portion of such 494
retirement income is otherwise included in federal adjusted 495
gross income and is not otherwise deducted under this section. 496
Any amount deducted under division (A) (26) of this section is 497
not included in a taxpayer's adjusted gross income for the 498
purposes of section 5747.055 of the Revised Code. No amount may 499
be deducted under division (A) (26) of this section on the basis 500
of which a credit was claimed under section 5747.055 of the 501
Revised Code. 502

(27) Deduct, to the extent not otherwise deducted or 503
excluded in computing federal or Ohio adjusted gross income for 504
the taxable year, the amount the taxpayer received during the 505
taxable year from the military injury relief fund created in 506
section 5101.98 of the Revised Code. 507

(28) Deduct, to the extent not otherwise deducted or 508
excluded in computing federal or Ohio adjusted gross income for 509
the taxable year, the amount the taxpayer received as a veterans 510
bonus during the taxable year from the Ohio department of 511
veterans services as authorized by Section 2r of Article VIII, 512
Ohio Constitution. 513

(29) Deduct, to the extent not otherwise deducted or 514
excluded in computing federal or Ohio adjusted gross income for 515

the taxable year, any income derived from a transfer agreement 516
or from the enterprise transferred under that agreement under 517
section 4313.02 of the Revised Code. 518

(30) Deduct, to the extent not otherwise deducted or 519
excluded in computing federal or Ohio adjusted gross income for 520
the taxable year, Ohio college opportunity or federal Pell grant 521
amounts received by the taxpayer or the taxpayer's spouse or 522
dependent pursuant to section 3333.122 of the Revised Code or 20 523
U.S.C. 1070a, et seq., and used to pay room or board furnished 524
by the educational institution for which the grant was awarded 525
at the institution's facilities, including meal plans 526
administered by the institution. For the purposes of this 527
division, receipt of a grant includes the distribution of a 528
grant directly to an educational institution and the crediting 529
of the grant to the enrollee's account with the institution. 530

(31) Deduct one-half of the taxpayer's Ohio small business 531
investor income, the deduction not to exceed sixty-two thousand 532
five hundred dollars for each spouse if spouses file separate 533
returns under section 5747.08 of the Revised Code or one hundred 534
twenty-five thousand dollars for all other taxpayers. No pass- 535
through entity may claim a deduction under this division. 536

For the purposes of this division, "Ohio small business 537
investor income" means the portion of a taxpayer's adjusted 538
gross income that is business income reduced by deductions from 539
business income and apportioned or allocated to this state under 540
sections 5747.21 and 5747.22 of the Revised Code, to the extent 541
not otherwise deducted or excluded in computing federal or Ohio 542
adjusted gross income for the taxable year. 543

(32) Deduct an amount equal to the fair market value of 544
services provided free of charge by dentists and dental 545

hygienists under the hope for a smile program established by 546
section 3701.139 of the Revised Code. 547

(B) "Business income" means income, including gain or 548
loss, arising from transactions, activities, and sources in the 549
regular course of a trade or business and includes income, gain, 550
or loss from real property, tangible property, and intangible 551
property if the acquisition, rental, management, and disposition 552
of the property constitute integral parts of the regular course 553
of a trade or business operation. "Business income" includes 554
income, including gain or loss, from a partial or complete 555
liquidation of a business, including, but not limited to, gain 556
or loss from the sale or other disposition of goodwill. 557

(C) "Nonbusiness income" means all income other than 558
business income and may include, but is not limited to, 559
compensation, rents and royalties from real or tangible personal 560
property, capital gains, interest, dividends and distributions, 561
patent or copyright royalties, or lottery winnings, prizes, and 562
awards. 563

(D) "Compensation" means any form of remuneration paid to 564
an employee for personal services. 565

(E) "Fiduciary" means a guardian, trustee, executor, 566
administrator, receiver, conservator, or any other person acting 567
in any fiduciary capacity for any individual, trust, or estate. 568

(F) "Fiscal year" means an accounting period of twelve 569
months ending on the last day of any month other than December. 570

(G) "Individual" means any natural person. 571

(H) "Internal Revenue Code" means the "Internal Revenue 572
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 573

(I) "Resident" means any of the following, provided that 574
division (I) (3) of this section applies only to taxable years of 575
a trust beginning in 2002 or thereafter: 576

(1) An individual who is domiciled in this state, subject 577
to section 5747.24 of the Revised Code; 578

(2) The estate of a decedent who at the time of death was 579
domiciled in this state. The domicile tests of section 5747.24 580
of the Revised Code are not controlling for purposes of division 581
(I) (2) of this section. 582

(3) A trust that, in whole or part, resides in this state. 583
If only part of a trust resides in this state, the trust is a 584
resident only with respect to that part. 585

For the purposes of division (I) (3) of this section: 586

(a) A trust resides in this state for the trust's current 587
taxable year to the extent, as described in division (I) (3) (d) 588
of this section, that the trust consists directly or indirectly, 589
in whole or in part, of assets, net of any related liabilities, 590
that were transferred, or caused to be transferred, directly or 591
indirectly, to the trust by any of the following: 592

(i) A person, a court, or a governmental entity or 593
instrumentality on account of the death of a decedent, but only 594
if the trust is described in division (I) (3) (e) (i) or (ii) of 595
this section; 596

(ii) A person who was domiciled in this state for the 597
purposes of this chapter when the person directly or indirectly 598
transferred assets to an irrevocable trust, but only if at least 599
one of the trust's qualifying beneficiaries is domiciled in this 600
state for the purposes of this chapter during all or some 601
portion of the trust's current taxable year; 602

(iii) A person who was domiciled in this state for the 603
purposes of this chapter when the trust document or instrument 604
or part of the trust document or instrument became irrevocable, 605
but only if at least one of the trust's qualifying beneficiaries 606
is a resident domiciled in this state for the purposes of this 607
chapter during all or some portion of the trust's current 608
taxable year. If a trust document or instrument became 609
irrevocable upon the death of a person who at the time of death 610
was domiciled in this state for purposes of this chapter, that 611
person is a person described in division (I) (3) (a) (iii) of this 612
section. 613

(b) A trust is irrevocable to the extent that the 614
transferor is not considered to be the owner of the net assets 615
of the trust under sections 671 to 678 of the Internal Revenue 616
Code. 617

(c) With respect to a trust other than a charitable lead 618
trust, "qualifying beneficiary" has the same meaning as 619
"potential current beneficiary" as defined in section 1361(e) (2) 620
of the Internal Revenue Code, and with respect to a charitable 621
lead trust "qualifying beneficiary" is any current, future, or 622
contingent beneficiary, but with respect to any trust 623
"qualifying beneficiary" excludes a person or a governmental 624
entity or instrumentality to any of which a contribution would 625
qualify for the charitable deduction under section 170 of the 626
Internal Revenue Code. 627

(d) For the purposes of division (I) (3) (a) of this 628
section, the extent to which a trust consists directly or 629
indirectly, in whole or in part, of assets, net of any related 630
liabilities, that were transferred directly or indirectly, in 631
whole or part, to the trust by any of the sources enumerated in 632

that division shall be ascertained by multiplying the fair 633
market value of the trust's assets, net of related liabilities, 634
by the qualifying ratio, which shall be computed as follows: 635

(i) The first time the trust receives assets, the 636
numerator of the qualifying ratio is the fair market value of 637
those assets at that time, net of any related liabilities, from 638
sources enumerated in division (I) (3) (a) of this section. The 639
denominator of the qualifying ratio is the fair market value of 640
all the trust's assets at that time, net of any related 641
liabilities. 642

(ii) Each subsequent time the trust receives assets, a 643
revised qualifying ratio shall be computed. The numerator of the 644
revised qualifying ratio is the sum of (1) the fair market value 645
of the trust's assets immediately prior to the subsequent 646
transfer, net of any related liabilities, multiplied by the 647
qualifying ratio last computed without regard to the subsequent 648
transfer, and (2) the fair market value of the subsequently 649
transferred assets at the time transferred, net of any related 650
liabilities, from sources enumerated in division (I) (3) (a) of 651
this section. The denominator of the revised qualifying ratio is 652
the fair market value of all the trust's assets immediately 653
after the subsequent transfer, net of any related liabilities. 654

(iii) Whether a transfer to the trust is by or from any of 655
the sources enumerated in division (I) (3) (a) of this section 656
shall be ascertained without regard to the domicile of the 657
trust's beneficiaries. 658

(e) For the purposes of division (I) (3) (a) (i) of this 659
section: 660

(i) A trust is described in division (I) (3) (e) (i) of this 661

section if the trust is a testamentary trust and the testator of 662
that testamentary trust was domiciled in this state at the time 663
of the testator's death for purposes of the taxes levied under 664
Chapter 5731. of the Revised Code. 665

(ii) A trust is described in division (I) (3) (e) (ii) of 666
this section if the transfer is a qualifying transfer described 667
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 668
trust is an irrevocable inter vivos trust, and at least one of 669
the trust's qualifying beneficiaries is domiciled in this state 670
for purposes of this chapter during all or some portion of the 671
trust's current taxable year. 672

(f) For the purposes of division (I) (3) (e) (ii) of this 673
section, a "qualifying transfer" is a transfer of assets, net of 674
any related liabilities, directly or indirectly to a trust, if 675
the transfer is described in any of the following: 676

(i) The transfer is made to a trust, created by the 677
decedent before the decedent's death and while the decedent was 678
domiciled in this state for the purposes of this chapter, and, 679
prior to the death of the decedent, the trust became irrevocable 680
while the decedent was domiciled in this state for the purposes 681
of this chapter. 682

(ii) The transfer is made to a trust to which the 683
decedent, prior to the decedent's death, had directly or 684
indirectly transferred assets, net of any related liabilities, 685
while the decedent was domiciled in this state for the purposes 686
of this chapter, and prior to the death of the decedent the 687
trust became irrevocable while the decedent was domiciled in 688
this state for the purposes of this chapter. 689

(iii) The transfer is made on account of a contractual 690

relationship existing directly or indirectly between the 691
transferor and either the decedent or the estate of the decedent 692
at any time prior to the date of the decedent's death, and the 693
decedent was domiciled in this state at the time of death for 694
purposes of the taxes levied under Chapter 5731. of the Revised 695
Code. 696

(iv) The transfer is made to a trust on account of a 697
contractual relationship existing directly or indirectly between 698
the transferor and another person who at the time of the 699
decedent's death was domiciled in this state for purposes of 700
this chapter. 701

(v) The transfer is made to a trust on account of the will 702
of a testator who was domiciled in this state at the time of the 703
testator's death for purposes of the taxes levied under Chapter 704
5731. of the Revised Code. 705

(vi) The transfer is made to a trust created by or caused 706
to be created by a court, and the trust was directly or 707
indirectly created in connection with or as a result of the 708
death of an individual who, for purposes of the taxes levied 709
under Chapter 5731. of the Revised Code, was domiciled in this 710
state at the time of the individual's death. 711

(g) The tax commissioner may adopt rules to ascertain the 712
part of a trust residing in this state. 713

(J) "Nonresident" means an individual or estate that is 714
not a resident. An individual who is a resident for only part of 715
a taxable year is a nonresident for the remainder of that 716
taxable year. 717

(K) "Pass-through entity" has the same meaning as in 718
section 5733.04 of the Revised Code. 719

(L) "Return" means the notifications and reports required 720
to be filed pursuant to this chapter for the purpose of 721
reporting the tax due and includes declarations of estimated tax 722
when so required. 723

(M) "Taxable year" means the calendar year or the 724
taxpayer's fiscal year ending during the calendar year, or 725
fractional part thereof, upon which the adjusted gross income is 726
calculated pursuant to this chapter. 727

(N) "Taxpayer" means any person subject to the tax imposed 728
by section 5747.02 of the Revised Code or any pass-through 729
entity that makes the election under division (D) of section 730
5747.08 of the Revised Code. 731

(O) "Dependents" means dependents as defined in the 732
Internal Revenue Code and as claimed in the taxpayer's federal 733
income tax return for the taxable year or which the taxpayer 734
would have been permitted to claim had the taxpayer filed a 735
federal income tax return. 736

(P) "Principal county of employment" means, in the case of 737
a nonresident, the county within the state in which a taxpayer 738
performs services for an employer or, if those services are 739
performed in more than one county, the county in which the major 740
portion of the services are performed. 741

(Q) As used in sections 5747.50 to 5747.55 of the Revised 742
Code: 743

(1) "Subdivision" means any county, municipal corporation, 744
park district, or township. 745

(2) "Essential local government purposes" includes all 746
functions that any subdivision is required by general law to 747
exercise, including like functions that are exercised under a 748

charter adopted pursuant to the Ohio Constitution. 749

(R) "Overpayment" means any amount already paid that 750
exceeds the figure determined to be the correct amount of the 751
tax. 752

(S) "Taxable income" or "Ohio taxable income" applies only 753
to estates and trusts, and means federal taxable income, as 754
defined and used in the Internal Revenue Code, adjusted as 755
follows: 756

(1) Add interest or dividends, net of ordinary, necessary, 757
and reasonable expenses not deducted in computing federal 758
taxable income, on obligations or securities of any state or of 759
any political subdivision or authority of any state, other than 760
this state and its subdivisions and authorities, but only to the 761
extent that such net amount is not otherwise includible in Ohio 762
taxable income and is described in either division (S) (1) (a) or 763
(b) of this section: 764

(a) The net amount is not attributable to the S portion of 765
an electing small business trust and has not been distributed to 766
beneficiaries for the taxable year; 767

(b) The net amount is attributable to the S portion of an 768
electing small business trust for the taxable year. 769

(2) Add interest or dividends, net of ordinary, necessary, 770
and reasonable expenses not deducted in computing federal 771
taxable income, on obligations of any authority, commission, 772
instrumentality, territory, or possession of the United States 773
to the extent that the interest or dividends are exempt from 774
federal income taxes but not from state income taxes, but only 775
to the extent that such net amount is not otherwise includible 776
in Ohio taxable income and is described in either division (S) 777

- (1) (a) or (b) of this section; 778
- (3) Add the amount of personal exemption allowed to the 779
estate pursuant to section 642(b) of the Internal Revenue Code; 780
- (4) Deduct interest or dividends, net of related expenses 781
deducted in computing federal taxable income, on obligations of 782
the United States and its territories and possessions or of any 783
authority, commission, or instrumentality of the United States 784
to the extent that the interest or dividends are exempt from 785
state taxes under the laws of the United States, but only to the 786
extent that such amount is included in federal taxable income 787
and is described in either division (S) (1) (a) or (b) of this 788
section; 789
- (5) Deduct the amount of wages and salaries, if any, not 790
otherwise allowable as a deduction but that would have been 791
allowable as a deduction in computing federal taxable income for 792
the taxable year, had the targeted jobs credit allowed under 793
sections 38, 51, and 52 of the Internal Revenue Code not been in 794
effect, but only to the extent such amount relates either to 795
income included in federal taxable income for the taxable year 796
or to income of the S portion of an electing small business 797
trust for the taxable year; 798
- (6) Deduct any interest or interest equivalent, net of 799
related expenses deducted in computing federal taxable income, 800
on public obligations and purchase obligations, but only to the 801
extent that such net amount relates either to income included in 802
federal taxable income for the taxable year or to income of the 803
S portion of an electing small business trust for the taxable 804
year; 805
- (7) Add any loss or deduct any gain resulting from sale, 806

exchange, or other disposition of public obligations to the 807
extent that such loss has been deducted or such gain has been 808
included in computing either federal taxable income or income of 809
the S portion of an electing small business trust for the 810
taxable year; 811

(8) Except in the case of the final return of an estate, 812
add any amount deducted by the taxpayer on both its Ohio estate 813
tax return pursuant to section 5731.14 of the Revised Code, and 814
on its federal income tax return in determining federal taxable 815
income; 816

(9) (a) Deduct any amount included in federal taxable 817
income solely because the amount represents a reimbursement or 818
refund of expenses that in a previous year the decedent had 819
deducted as an itemized deduction pursuant to section 63 of the 820
Internal Revenue Code and applicable treasury regulations. The 821
deduction otherwise allowed under division (S) (9) (a) of this 822
section shall be reduced to the extent the reimbursement is 823
attributable to an amount the taxpayer or decedent deducted 824
under this section in any taxable year. 825

(b) Add any amount not otherwise included in Ohio taxable 826
income for any taxable year to the extent that the amount is 827
attributable to the recovery during the taxable year of any 828
amount deducted or excluded in computing federal or Ohio taxable 829
income in any taxable year, but only to the extent such amount 830
has not been distributed to beneficiaries for the taxable year. 831

(10) Deduct any portion of the deduction described in 832
section 1341(a) (2) of the Internal Revenue Code, for repaying 833
previously reported income received under a claim of right, that 834
meets both of the following requirements: 835

(a) It is allowable for repayment of an item that was 836
included in the taxpayer's taxable income or the decedent's 837
adjusted gross income for a prior taxable year and did not 838
qualify for a credit under division (A) or (B) of section 839
5747.05 of the Revised Code for that year. 840

(b) It does not otherwise reduce the taxpayer's taxable 841
income or the decedent's adjusted gross income for the current 842
or any other taxable year. 843

(11) Add any amount claimed as a credit under section 844
5747.059 or 5747.65 of the Revised Code to the extent that the 845
amount satisfies either of the following: 846

(a) The amount was deducted or excluded from the 847
computation of the taxpayer's federal taxable income as required 848
to be reported for the taxpayer's taxable year under the 849
Internal Revenue Code; 850

(b) The amount resulted in a reduction in the taxpayer's 851
federal taxable income as required to be reported for any of the 852
taxpayer's taxable years under the Internal Revenue Code. 853

(12) Deduct any amount, net of related expenses deducted 854
in computing federal taxable income, that a trust is required to 855
report as farm income on its federal income tax return, but only 856
if the assets of the trust include at least ten acres of land 857
satisfying the definition of "land devoted exclusively to 858
agricultural use" under section 5713.30 of the Revised Code, 859
regardless of whether the land is valued for tax purposes as 860
such land under sections 5713.30 to 5713.38 of the Revised Code. 861
If the trust is a pass-through entity investor, section 5747.231 862
of the Revised Code applies in ascertaining if the trust is 863
eligible to claim the deduction provided by division (S)(12) of 864

this section in connection with the pass-through entity's farm income. 865
866

Except for farm income attributable to the S portion of an 867
electing small business trust, the deduction provided by 868
division (S) (12) of this section is allowed only to the extent 869
that the trust has not distributed such farm income. Division 870
(S) (12) of this section applies only to taxable years of a trust 871
beginning in 2002 or thereafter. 872

(13) Add the net amount of income described in section 873
641(c) of the Internal Revenue Code to the extent that amount is 874
not included in federal taxable income. 875

(14) Add or deduct the amount the taxpayer would be 876
required to add or deduct under division (A) (20) or (21) of this 877
section if the taxpayer's Ohio taxable income were computed in 878
the same manner as an individual's Ohio adjusted gross income is 879
computed under this section. In the case of a trust, division 880
(S) (14) of this section applies only to any of the trust's 881
taxable years beginning in 2002 or thereafter. 882

(T) "School district income" and "school district income 883
tax" have the same meanings as in section 5748.01 of the Revised 884
Code. 885

(U) As used in divisions (A) (8), (A) (9), (S) (6), and (S) 886
(7) of this section, "public obligations," "purchase 887
obligations," and "interest or interest equivalent" have the 888
same meanings as in section 5709.76 of the Revised Code. 889

(V) "Limited liability company" means any limited 890
liability company formed under Chapter 1705. of the Revised Code 891
or under the laws of any other state. 892

(W) "Pass-through entity investor" means any person who, 893

during any portion of a taxable year of a pass-through entity, 894
is a partner, member, shareholder, or equity investor in that 895
pass-through entity. 896

(X) "Banking day" has the same meaning as in section 897
1304.01 of the Revised Code. 898

(Y) "Month" means a calendar month. 899

(Z) "Quarter" means the first three months, the second 900
three months, the third three months, or the last three months 901
of the taxpayer's taxable year. 902

(AA) (1) "Eligible institution" means a state university or 903
state institution of higher education as defined in section 904
3345.011 of the Revised Code, or a private, nonprofit college, 905
university, or other post-secondary institution located in this 906
state that possesses a certificate of authorization issued by 907
the Ohio board of regents pursuant to Chapter 1713. of the 908
Revised Code or a certificate of registration issued by the 909
state board of career colleges and schools under Chapter 3332. 910
of the Revised Code. 911

(2) "Qualified tuition and fees" means tuition and fees 912
imposed by an eligible institution as a condition of enrollment 913
or attendance, not exceeding two thousand five hundred dollars 914
in each of the individual's first two years of post-secondary 915
education. If the individual is a part-time student, "qualified 916
tuition and fees" includes tuition and fees paid for the 917
academic equivalent of the first two years of post-secondary 918
education during a maximum of five taxable years, not exceeding 919
a total of five thousand dollars. "Qualified tuition and fees" 920
does not include: 921

(a) Expenses for any course or activity involving sports, 922

games, or hobbies unless the course or activity is part of the individual's degree or diploma program; 923
924

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction; 925
926
927

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program. 928
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(BB) (1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any. 931
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(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied: 935
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(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust. 941
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(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss. 946
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Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be. 949
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(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

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

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

(i) The trust's modified business income;

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

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount

with respect to more than one qualifying investee, the amount 981
described in division (BB) (4) (b) of this section shall equal the 982
sum of the products so computed for each such qualifying 983
investee. 984

(c) (i) With respect to a trust or portion of a trust that 985
is a resident as ascertained in accordance with division (I) (3) 986
(d) of this section, its modified nonbusiness income. 987

(ii) With respect to a trust or portion of a trust that is 988
not a resident as ascertained in accordance with division (I) (3) 989
(d) of this section, the amount of its modified nonbusiness 990
income satisfying the descriptions in divisions (B) (2) to (5) of 991
section 5747.20 of the Revised Code, except as otherwise 992
provided in division (BB) (4) (c) (ii) of this section. With 993
respect to a trust or portion of a trust that is not a resident 994
as ascertained in accordance with division (I) (3) (d) of this 995
section, the trust's portion of modified nonbusiness income 996
recognized from the sale, exchange, or other disposition of a 997
debt interest in or equity interest in a section 5747.212 998
entity, as defined in section 5747.212 of the Revised Code, 999
without regard to division (A) of that section, shall not be 1000
allocated to this state in accordance with section 5747.20 of 1001
the Revised Code but shall be apportioned to this state in 1002
accordance with division (B) of section 5747.212 of the Revised 1003
Code without regard to division (A) of that section. 1004

If the allocation and apportionment of a trust's income 1005
under divisions (BB) (4) (a) and (c) of this section do not fairly 1006
represent the modified Ohio taxable income of the trust in this 1007
state, the alternative methods described in division (C) of 1008
section 5747.21 of the Revised Code may be applied in the manner 1009
and to the same extent provided in that section. 1010

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

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

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

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

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

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

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

(ii) Such gain or loss constitutes nonbusiness income.

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

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

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

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

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

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

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

(ii) A subsidiary that is wholly owned by any corporation 1100
that has made an election under subchapter S, chapter one, 1101
subtitle A of the Internal Revenue Code for its taxable year 1102
ending within, or on the last day of, the investor's taxable 1103
year. 1104

(2) For the purposes of this chapter, unless expressly 1105
stated otherwise, no qualifying person indirectly owns any asset 1106
directly or indirectly owned by any qualifying corporation. 1107

(FF) For purposes of this chapter and Chapter 5751. of the 1108
Revised Code: 1109

(1) "Trust" does not include a qualified pre-income tax 1110
trust. 1111

(2) A "qualified pre-income tax trust" is any pre-income 1112
tax trust that makes a qualifying pre-income tax trust election 1113
as described in division (FF)(3) of this section. 1114

(3) A "qualifying pre-income tax trust election" is an 1115
election by a pre-income tax trust to subject to the tax imposed 1116
by section 5751.02 of the Revised Code the pre-income tax trust 1117
and all pass-through entities of which the trust owns or 1118
controls, directly, indirectly, or constructively through 1119
related interests, five per cent or more of the ownership or 1120
equity interests. The trustee shall notify the tax commissioner 1121
in writing of the election on or before April 15, 2006. The 1122
election, if timely made, shall be effective on and after 1123
January 1, 2006, and shall apply for all tax periods and tax 1124
years until revoked by the trustee of the trust. 1125

(4) A "pre-income tax trust" is a trust that satisfies all 1126
of the following requirements: 1127

(a) The document or instrument creating the trust was 1128

executed by the grantor before January 1, 1972; 1129

(b) The trust became irrevocable upon the creation of the 1130
trust; and 1131

(c) The grantor was domiciled in this state at the time 1132
the trust was created. 1133

(GG) "Uniformed services" has the same meaning as in 10 1134
U.S.C. 101. 1135

Section 2. That existing section 5747.01 of the Revised 1136
Code is hereby repealed. 1137

Section 3. The amendment by this act adding division (A) 1138
(32) to section 5747.01 of the Revised Code applies to taxable 1139
years beginning on or after January 1, 2015. 1140