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134th General Assembly
Regular Session
2021-2022

Sub. S. B. No. 24

A BILL

To amend sections 2921.13, 5747.01, and 5747.10 and
to enact sections 193.01, 193.02, 193.03,
193.04, 193.05, 193.06, and 193.07 of the
Revised Code to enact the First-time Home Buyer
Savings Act, authorizing income tax deductions
for contributions to and earnings on savings
accounts designated for the purchase of a home.

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

Section 1. That sections 2921.13, 5747.01, and 5747.10 be
amended and sections 193.01, 193.02, 193.03, 193.04, 193.05,
193.06, and 193.07 of the Revised Code be enacted to read as
follows:

Sec. 193.01. As used in this chapter:

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

(B) "Allowable closing costs" means a disbursement listed
on a closing disclosure for the purchase of a single-family



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residence in this state by a qualified beneficiary. 18

(C) "Eligible costs" means the down payment and allowable 19
closing costs for the purchase of a single-family residence in 20
this state by a qualified beneficiary. 21

(D) "Financial institution" means any bank, trust company, 22
savings institution, industrial loan association, consumer 23
finance company, credit union, or any benefit association, 24
insurance company, safe deposit company, money market mutual 25
fund, or similar entity authorized to do business in this state. 26

(E) "First-time home buyer" means an individual who 27
resides in this state and has not owned or purchased, either 28
individually or jointly, a single-family residence before 29
purchasing a single-family residence using amounts from a first- 30
time home buyer savings account. 31

(F) "First-time home buyer savings account" or "account" 32
means an account at a financial institution that is designated, 33
in its entirety, by the account holder as a first-time home 34
buyer savings account pursuant to this chapter for the purpose 35
of paying or reimbursing eligible costs for the purchase of a 36
single-family residence in this state by a qualified 37
beneficiary. 38

(G) "Qualified beneficiary" means a first-time home buyer 39
who is designated by the account holder of a first-time home 40
buyer savings account. 41

(H) "Closing disclosure" means the statement of receipts 42
and disbursement for a transaction related to real estate, 43
including a statement prescribed under the "Real Estate 44
Settlement Procedures Act of 1974," 12 U.S.C. 2601 et seq., as 45
amended, and regulations thereunder. 46

(I) "Single-family residence" means a dwelling, including 47
a unit in a multiple-unit dwelling and a manufactured home or 48
mobile home, owned and occupied by a qualified beneficiary as a 49
principal residence. A single-family residence includes so much 50
of the land surrounding it as is reasonably necessary for the 51
use of the dwelling or unit as a home. 52

(J) "Manufactured home" has the same meaning as in section 53
3781.06 of the Revised Code. 54

(K) "Mobile home" has the same meaning as in section 55
4501.01 of the Revised Code. 56

(L) "Active duty" and "uniformed services" have the same 57
meanings as in section 5906.01 of the Revised Code. 58

Sec. 193.02. (A) On or after January 1, 2022, any 59
individual may open an account at a financial institution and 60
designate the account, in its entirety, as a first-time home 61
buyer savings account. All funds deposited to, or held in a 62
first-time home buyer savings account shall be intended for use 63
in paying or reimbursing eligible costs for the purchase of a 64
single-family residence in this state by the account's qualified 65
beneficiary. An account that includes funds intended for other 66
purposes shall not be designated as a first-time home buyer 67
savings account. Individuals who are married may jointly open, 68
designate, and own a first-time home buyer savings account but, 69
otherwise, a first-time home buyer savings account shall be 70
owned by not more than one account holder. 71

(B) An account holder shall designate one first-time home 72
buyer as the qualified beneficiary of the first-time home buyer 73
savings account in the form and manner prescribed by the tax 74
commissioner under section 193.07 of the Revised Code not later 75

than the fifteenth day of April of the year following the year 76
in which the account holder first designated the account under 77
this section. Account holders may change the designated 78
qualified beneficiary not more than one time in each taxable 79
year. The forms for initially designating or subsequently 80
changing the qualified beneficiary associated with a first-time 81
home buyer savings account shall include an affidavit signed by 82
the account holder by which the account holder attests that, as 83
of the date the form is executed, the designated beneficiary 84
meets all qualifications prescribed by this chapter for a first- 85
time home buyer. 86

(C) An account holder may designate the account holder as 87
the qualified beneficiary. 88

(D) A first-time home buyer savings account shall not have 89
more than one qualified beneficiary at any time. 90

(E) An individual may be the account holder of more than 91
one first-time home buyer savings account. However, an account 92
holder shall not designate the same qualified beneficiary for 93
more than one account. 94

(F) An individual may be designated as the qualified 95
beneficiary on more than one first-time home buyer savings 96
account only if the accounts are owned by different account 97
holders. 98

(G) Only cash and marketable securities may be deposited 99
to a first-time home buyer savings account. 100

(H) Any person may deposit money in a first-time home 101
buyer savings account. There is no limitation on the amount of 102
money that may be deposited to or retained in a first-time home 103
buyer savings account. All deposits to a first-time home buyer 104

savings account are attributed to the account holder or holders 105
for the purposes of the income tax deduction authorized under 106
section 193.05 of the Revised Code. 107

Sec. 193.03. (A) For the fourth taxable year following the 108
taxable year that the account holder first designated a first- 109
time home buyer savings account under section 193.02 of the 110
Revised Code, and for each taxable year that the account holder 111
claims a deduction or is required to make an addition to the 112
account holder's federal adjusted gross income under section 113
193.05 of the Revised Code, the account holder shall submit, 114
along with the account holder's state income tax return filed 115
pursuant to section 5747.08 of the Revised Code, all of the 116
following information for each first-time home buyer savings 117
account owned by the account holder during the taxable year: 118

(1) The account holder's name; 119

(2) The name of the qualified beneficiary; 120

(3) The name of the financial institution and the account 121
number; 122

(4) The balance of the account at the beginning and at the 123
end of the taxable year, and a ledger listing the deposits to 124
and withdrawals from the account during that period, including 125
debits for service fees associated with administering the 126
account; 127

(5) The internal revenue service form 1099 issued pursuant 128
to the Internal Revenue Code by the financial institution with 129
which the account is held; 130

(6) The amount of the deduction claimed, or addition made 131
under section 193.05 of the Revised Code for the taxable year; 132

(7) If money was withdrawn from the account during the 133
taxable year and used to pay or reimburse eligible costs for the 134
account's qualified beneficiary, a detailed accounting of the 135
eligible costs toward which the money was applied; 136

(8) If money was transferred during the taxable year from 137
the account to another first-time home buyer savings account, 138
the name of the financial institution with which the new account 139
is held and the qualified beneficiary of the new account; 140

(9) If money was withdrawn from the account during the 141
taxable year due to the death or disability of the account 142
holder, the name and address of each person to which the money 143
was distributed. 144

(B) Notwithstanding division (A) of this section, an 145
account holder shall not be required to submit the information 146
described by that division for the fourth taxable year following 147
the taxable year that the account holder first designated a 148
first-time home buyer savings account under section 193.02 of 149
the Revised Code if all of the following apply: 150

(1) The account holder did not claim a deduction and is 151
not required to make an addition to the account holder's federal 152
adjusted gross income under section 193.05 of the Revised Code 153
for that taxable year; 154

(2) The balance of the account was zero at the end of the 155
most recent taxable year for which the account holder submitted 156
information under division (A) of this section; 157

(3) No deposits were made to the account following the end 158
of the most recent taxable year for which the account holder 159
submitted information under division (A) of this section. 160

(C) The account holder or holders shall comply with the 161

reporting obligations prescribed by this section in the form and 162
manner prescribed by the tax commissioner under section 193.07 163
of the Revised Code. 164

Sec. 193.04. (A) A financial institution shall not be 165
required to do any of the following: 166

(1) Designate an account as a first-time home buyer 167
savings account, or designate the qualified beneficiary of an 168
account, in the financial institution's account contracts or 169
systems or in any other way; 170

(2) Track the use of money withdrawn from a first-time 171
home buyer savings account; 172

(3) Allocate funds in a first-time home buyer savings 173
account among joint account holder or multiple qualified 174
beneficiaries; 175

(4) Except as provided in division (D) of this section, 176
report any information not otherwise required by law to the 177
department of taxation or any other governmental agency. 178

(B) A financial institution is not responsible or liable 179
for any of the following: 180

(1) Determining or ensuring that an account satisfies the 181
requirements to be a first-time home buyer savings account; 182

(2) Determining or ensuring that funds in a first-time 183
home buyer savings account are used for eligible costs; 184

(3) Reporting or remitting taxes or penalties related to 185
the use of a first-time home buyer savings account. 186

(C) Upon being furnished proof of the death of the account 187
holder and such other information required by the contract 188

governing the first-time home buyer savings account, a financial 189
institution shall distribute the principal and accumulated 190
interest or other income in the account in accordance with the 191
terms of the contract governing the account. 192

(D) For the purpose of resolving discrepancies in 193
information reported by an account holder under section 193.03 194
of the Revised Code or investigating suspected false statements 195
by an account holder, the tax commissioner may request that the 196
financial institution at which the first-time home buyer savings 197
account is held provide statements and other records associated 198
with the account. The financial institution at which the account 199
is held shall provide the commissioner with the requested 200
statements and records within thirty days after receiving the 201
request. 202

Sec. 193.05. (A) Subject to the limitations prescribed by 203
division (C) of this section, in determining Ohio adjusted gross 204
income under Chapter 5747. of the Revised Code an account holder 205
may deduct the following amounts, to the extent such amounts 206
have not otherwise been deducted or excluded in determining the 207
account holder's federal adjusted gross income: 208

(1) The total of the deposits to one or more first-time 209
home buyer savings accounts owned by the account holder or the 210
account holder's spouse during the taxable year; 211

(2) The interest and other income on the principal balance 212
of each of the account holder's first-time home buyer savings 213
accounts. 214

(B) In determining Ohio adjusted gross income under 215
Chapter 5747. of the Revised Code, an account holder shall add 216
to the account holder's federal adjusted gross income an amount 217

equal to the sum of the amounts described in divisions (B) (1), 218
(2), and (3) of this section to the extent that such amounts 219
were included in the account holder's federal adjusted gross 220
income in a prior taxable year and were deducted in determining 221
the account holder's Ohio adjusted gross income for that taxable 222
year. In determining the extent to which such amounts shall be 223
included in the account holder's Ohio adjusted gross income, the 224
tax commissioner shall be guided by sections 72 and 408 of the 225
Internal Revenue Code governing the determination of the amount 226
of withdrawals from an individual retirement account to be 227
included in federal adjusted gross income. 228

(1) Amounts withdrawn from a first-time home buyer savings 229
account owned by the account holder that are not transferred to 230
another first-time home buyer savings account, debited by the 231
financial institution with which the account is held to pay a 232
service fee for administering the account, or used to pay 233
eligible costs for the purchase of a single-family residence by 234
a qualified beneficiary or to reimburse a qualified beneficiary 235
for such eligible costs; 236

(2) Investment earnings during the taxable year on amounts 237
withdrawn from the account that are described in division (B) (1) 238
of this section; 239

(3) Amounts remaining in the account on the thirty-first 240
day of December of the fourth taxable year following the taxable 241
year in which the account holder first designated a first-time 242
home buyer savings account under section 193.02 of the Revised 243
Code. 244

(C) (1) The total amount of deposits deducted by an account 245
holder under division (A) (1) of this section for a taxable year, 246
regardless of how many first-time home buyer savings accounts 247

the account holder owns, shall not exceed six thousand dollars 248
for spouses filing a joint income tax return under section 249
5747.08 of the Revised Code, or three thousand dollars for all 250
other account holders. 251

(2) The total amount of deposits, interest, and other 252
income deducted by an account holder under divisions (A)(1) and 253
(2) of this section for all taxable years, regardless of how 254
many first-time home buyer savings accounts the account holder 255
owns, shall not exceed thirty thousand dollars for spouses 256
filing a joint income tax return under section 5747.08 of the 257
Revised Code or fifteen thousand dollars for all other account 258
holders. 259

(3) No account holder may claim a deduction under division 260
(A) of this section after the fourth taxable year following the 261
taxable year in which the account holder first designates a 262
first-time home buyer savings account under section 193.02 of 263
the Revised Code. 264

(D) A person other than the account holder who deposits 265
money in a first-time home buyer savings account is not entitled 266
to a deduction under this section. 267

Sec. 193.06. (A) Except as otherwise provided in division 268
(B) of this section, an account holder shall pay a penalty equal 269
to ten per cent of the amounts described in divisions (B)(1) and 270
(3) of section 193.05 of the Revised Code for the taxable year 271
in which the account holder is required to add the amounts in 272
computing the account holder's Ohio adjusted gross income under 273
Chapter 5747. of the Revised Code. The penalty imposed under 274
this section shall be in addition to all other taxes and 275
penalties imposed on the amounts. The penalty shall be 276
considered as revenue arising from the taxes imposed by Chapter 277

5747. of the Revised Code and the tax commissioner may collect 278
past due penalties and interest thereon by assessment under 279
section 5747.13 of the Revised Code in the same manner as taxes 280
that are past due. 281

(B) The penalty imposed under this section does not apply 282
to any of the following: 283

(1) Amounts withdrawn by reason of the account holder's 284
death or disability; 285

(2) A disbursement of assets of the account pursuant to a 286
filing for protection under the United States Bankruptcy Code, 287
11 U.S.C. 101, et seq., more than one year after the date the 288
account was established under section 193.02 of the Revised Code 289
or, if the account includes amounts transferred from other 290
first-time home buyer savings accounts, more than one year after 291
the earliest date that a first-time home buyer savings account 292
from which the funds were transferred was established; 293

(3) Amounts transferred from one first-time home buyer 294
savings account to another first-time home buyers savings 295
account; 296

(4) Amounts debited from the account by the financial 297
institution with which the account is held to pay a service fee 298
for administering the account; 299

(5) Amounts withdrawn by an account holder who is a member 300
of the uniformed services within one year of either of the 301
following: 302

(a) The account holder is transferred or called into an 303
active duty assignment outside this state; 304

(b) The account holder's active duty assignment in this 305

state terminates or relocates outside this state. 306

Sec. 193.07. (A) The tax commissioner may adopt rules in 307
accordance with Chapter 119. of the Revised Code to implement 308
this chapter. 309

(B) The commissioner shall prepare forms and prescribe the 310
manner of submission for all of the following: 311

(1) The designation of an account with a financial 312
institution to serve as a first-time home buyer savings account; 313

(2) The initial designation or subsequent change of the 314
qualified beneficiary associated with a first-time home buyer 315
savings account, including the affidavit required to be included 316
in such forms by division (B) of section 193.02 of the Revised 317
Code; 318

(3) The submission of information about the first-time 319
home buyer savings account, under division (A) of section 193.03 320
of the Revised Code, for taxable years in which the account 321
holder claims a deduction, or is required to make an addition 322
under section 193.05 of the Revised Code. 323

Sec. 2921.13. (A) No person shall knowingly make a false 324
statement, or knowingly swear or affirm the truth of a false 325
statement previously made, when any of the following applies: 326

(1) The statement is made in any official proceeding. 327

(2) The statement is made with purpose to incriminate 328
another. 329

(3) The statement is made with purpose to mislead a public 330
official in performing the public official's official function. 331

(4) The statement is made with purpose to secure the 332

payment of unemployment compensation; Ohio works first; 333
prevention, retention, and contingency benefits and services; 334
disability financial assistance; retirement benefits or health 335
care coverage from a state retirement system; economic 336
development assistance, as defined in section 9.66 of the 337
Revised Code; or other benefits administered by a governmental 338
agency or paid out of a public treasury. 339

(5) The statement is made with purpose to secure the 340
issuance by a governmental agency of a license, permit, 341
authorization, certificate, registration, release, or provider 342
agreement. 343

(6) The statement is sworn or affirmed before a notary 344
public or another person empowered to administer oaths. 345

(7) The statement is in writing on or in connection with a 346
report or return that is required or authorized by law. 347

(8) The statement is in writing and is made with purpose 348
to induce another to extend credit to or employ the offender, to 349
confer any degree, diploma, certificate of attainment, award of 350
excellence, or honor on the offender, or to extend to or bestow 351
upon the offender any other valuable benefit or distinction, 352
when the person to whom the statement is directed relies upon it 353
to that person's detriment. 354

(9) The statement is made with purpose to commit or 355
facilitate the commission of a theft offense. 356

(10) The statement is knowingly made to a probate court in 357
connection with any action, proceeding, or other matter within 358
its jurisdiction, either orally or in a written document, 359
including, but not limited to, an application, petition, 360
complaint, or other pleading, or an inventory, account, or 361

report. 362

(11) The statement is made on an account, form, record, 363
stamp, label, or other writing that is required by law. 364

(12) The statement is made in connection with the purchase 365
of a firearm, as defined in section 2923.11 of the Revised Code, 366
and in conjunction with the furnishing to the seller of the 367
firearm of a fictitious or altered driver's or commercial 368
driver's license or permit, a fictitious or altered 369
identification card, or any other document that contains false 370
information about the purchaser's identity. 371

(13) The statement is made in a document or instrument of 372
writing that purports to be a judgment, lien, or claim of 373
indebtedness and is filed or recorded with the secretary of 374
state, a county recorder, or the clerk of a court of record. 375

(14) The statement is made in an application filed with a 376
county sheriff pursuant to section 2923.125 of the Revised Code 377
in order to obtain or renew a concealed handgun license or is 378
made in an affidavit submitted to a county sheriff to obtain a 379
concealed handgun license on a temporary emergency basis under 380
section 2923.1213 of the Revised Code. 381

(15) The statement is required under section 5743.71 of 382
the Revised Code in connection with the person's purchase of 383
cigarettes or tobacco products in a delivery sale. 384

(16) The statement is made in connection with a first-time 385
home buyer savings account and on a form, report, affidavit, or 386
other notification or communication required by Chapter 193. of 387
the Revised Code. 388

(B) No person, in connection with the purchase of a 389
firearm, as defined in section 2923.11 of the Revised Code, 390

shall knowingly furnish to the seller of the firearm a 391
fictitious or altered driver's or commercial driver's license or 392
permit, a fictitious or altered identification card, or any 393
other document that contains false information about the 394
purchaser's identity. 395

(C) No person, in an attempt to obtain a concealed handgun 396
license under section 2923.125 of the Revised Code, shall 397
knowingly present to a sheriff a fictitious or altered document 398
that purports to be certification of the person's competence in 399
handling a handgun as described in division (B) (3) of that 400
section. 401

(D) It is no defense to a charge under division (A) (6) of 402
this section that the oath or affirmation was administered or 403
taken in an irregular manner. 404

(E) If contradictory statements relating to the same fact 405
are made by the offender within the period of the statute of 406
limitations for falsification, it is not necessary for the 407
prosecution to prove which statement was false but only that one 408
or the other was false. 409

(F) (1) Whoever violates division (A) (1), (2), (3), (4), 410
(5), (6), (7), (8), (10), (11), (13), ~~or (15)~~, or (16) of this 411
section is guilty of falsification. Except as otherwise provided 412
in this division, falsification is a misdemeanor of the first 413
degree. 414

(2) Whoever violates division (A) (9) of this section is 415
guilty of falsification in a theft offense. Except as otherwise 416
provided in this division, falsification in a theft offense is a 417
misdemeanor of the first degree. If the value of the property or 418
services stolen is one thousand dollars or more and is less than 419

seven thousand five hundred dollars, falsification in a theft 420
offense is a felony of the fifth degree. If the value of the 421
property or services stolen is seven thousand five hundred 422
dollars or more and is less than one hundred fifty thousand 423
dollars, falsification in a theft offense is a felony of the 424
fourth degree. If the value of the property or services stolen 425
is one hundred fifty thousand dollars or more, falsification in 426
a theft offense is a felony of the third degree. 427

(3) Whoever violates division (A) (12) or (B) of this 428
section is guilty of falsification to purchase a firearm, a 429
felony of the fifth degree. 430

(4) Whoever violates division (A) (14) or (C) of this 431
section is guilty of falsification to obtain a concealed handgun 432
license, a felony of the fourth degree. 433

(5) Whoever violates division (A) of this section in 434
removal proceedings under section 319.26, 321.37, 507.13, or 435
733.78 of the Revised Code is guilty of falsification regarding 436
a removal proceeding, a felony of the third degree. 437

(G) A person who violates this section is liable in a 438
civil action to any person harmed by the violation for injury, 439
death, or loss to person or property incurred as a result of the 440
commission of the offense and for reasonable attorney's fees, 441
court costs, and other expenses incurred as a result of 442
prosecuting the civil action commenced under this division. A 443
civil action under this division is not the exclusive remedy of 444
a person who incurs injury, death, or loss to person or property 445
as a result of a violation of this section. 446

Sec. 5747.01. Except as otherwise expressly provided or 447
clearly appearing from the context, any term used in this 448

chapter that is not otherwise defined in this section has the 449
same meaning as when used in a comparable context in the laws of 450
the United States relating to federal income taxes or if not 451
used in a comparable context in those laws, has the same meaning 452
as in section 5733.40 of the Revised Code. Any reference in this 453
chapter to the Internal Revenue Code includes other laws of the 454
United States relating to federal income taxes. 455

As used in this chapter: 456

(A) "Adjusted gross income" or "Ohio adjusted gross 457
income" means federal adjusted gross income, as defined and used 458
in the Internal Revenue Code, adjusted as provided in this 459
section: 460

(1) Add interest or dividends on obligations or securities 461
of any state or of any political subdivision or authority of any 462
state, other than this state and its subdivisions and 463
authorities. 464

(2) Add interest or dividends on obligations of any 465
authority, commission, instrumentality, territory, or possession 466
of the United States to the extent that the interest or 467
dividends are exempt from federal income taxes but not from 468
state income taxes. 469

(3) Deduct interest or dividends on obligations of the 470
United States and its territories and possessions or of any 471
authority, commission, or instrumentality of the United States 472
to the extent that the interest or dividends are included in 473
federal adjusted gross income but exempt from state income taxes 474
under the laws of the United States. 475

(4) Deduct disability and survivor's benefits to the 476
extent included in federal adjusted gross income. 477

(5) Deduct benefits under Title II of the Social Security 478
Act and tier 1 railroad retirement benefits to the extent 479
included in federal adjusted gross income under section 86 of 480
the Internal Revenue Code. 481

(6) Deduct the amount of wages and salaries, if any, not 482
otherwise allowable as a deduction but that would have been 483
allowable as a deduction in computing federal adjusted gross 484
income for the taxable year, had the targeted jobs credit 485
allowed and determined under sections 38, 51, and 52 of the 486
Internal Revenue Code not been in effect. 487

(7) Deduct any interest or interest equivalent on public 488
obligations and purchase obligations to the extent that the 489
interest or interest equivalent is included in federal adjusted 490
gross income. 491

(8) Add any loss or deduct any gain resulting from the 492
sale, exchange, or other disposition of public obligations to 493
the extent that the loss has been deducted or the gain has been 494
included in computing federal adjusted gross income. 495

(9) Deduct or add amounts, as provided under section 496
5747.70 of the Revised Code, related to contributions to 497
variable college savings program accounts made or tuition units 498
purchased pursuant to Chapter 3334. of the Revised Code. 499

(10)(a) Deduct, to the extent not otherwise allowable as a 500
deduction or exclusion in computing federal or Ohio adjusted 501
gross income for the taxable year, the amount the taxpayer paid 502
during the taxable year for medical care insurance and qualified 503
long-term care insurance for the taxpayer, the taxpayer's 504
spouse, and dependents. No deduction for medical care insurance 505
under division (A)(10)(a) of this section shall be allowed 506

either to any taxpayer who is eligible to participate in any 507
subsidized health plan maintained by any employer of the 508
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 509
entitled to, or on application would be entitled to, benefits 510
under part A of Title XVIII of the "Social Security Act," 49 511
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 512
division (A)(10)(a) of this section, "subsidized health plan" 513
means a health plan for which the employer pays any portion of 514
the plan's cost. The deduction allowed under division (A)(10)(a) 515
of this section shall be the net of any related premium refunds, 516
related premium reimbursements, or related insurance premium 517
dividends received during the taxable year. 518

(b) Deduct, to the extent not otherwise deducted or 519
excluded in computing federal or Ohio adjusted gross income 520
during the taxable year, the amount the taxpayer paid during the 521
taxable year, not compensated for by any insurance or otherwise, 522
for medical care of the taxpayer, the taxpayer's spouse, and 523
dependents, to the extent the expenses exceed seven and one-half 524
per cent of the taxpayer's federal adjusted gross income. 525

(c) For purposes of division (A)(10) of this section, 526
"medical care" has the meaning given in section 213 of the 527
Internal Revenue Code, subject to the special rules, 528
limitations, and exclusions set forth therein, and "qualified 529
long-term care" has the same meaning given in section 7702B(c) 530
of the Internal Revenue Code. Solely for purposes of division 531
(A)(10)(a) of this section, "dependent" includes a person who 532
otherwise would be a "qualifying relative" and thus a 533
"dependent" under section 152 of the Internal Revenue Code but 534
for the fact that the person fails to meet the income and 535
support limitations under section 152(d)(1)(B) and (C) of the 536
Internal Revenue Code. 537

(11) (a) Deduct any amount included in federal adjusted 538
gross income solely because the amount represents a 539
reimbursement or refund of expenses that in any year the 540
taxpayer had deducted as an itemized deduction pursuant to 541
section 63 of the Internal Revenue Code and applicable United 542
States department of the treasury regulations. The deduction 543
otherwise allowed under division (A) (11) (a) of this section 544
shall be reduced to the extent the reimbursement is attributable 545
to an amount the taxpayer deducted under this section in any 546
taxable year. 547

(b) Add any amount not otherwise included in Ohio adjusted 548
gross income for any taxable year to the extent that the amount 549
is attributable to the recovery during the taxable year of any 550
amount deducted or excluded in computing federal or Ohio 551
adjusted gross income in any taxable year. 552

(12) Deduct any portion of the deduction described in 553
section 1341(a) (2) of the Internal Revenue Code, for repaying 554
previously reported income received under a claim of right, that 555
meets both of the following requirements: 556

(a) It is allowable for repayment of an item that was 557
included in the taxpayer's adjusted gross income for a prior 558
taxable year and did not qualify for a credit under division (A) 559
or (B) of section 5747.05 of the Revised Code for that year; 560

(b) It does not otherwise reduce the taxpayer's adjusted 561
gross income for the current or any other taxable year. 562

(13) Deduct an amount equal to the deposits made to, and 563
net investment earnings of, a medical savings account during the 564
taxable year, in accordance with section 3924.66 of the Revised 565
Code. The deduction allowed by division (A) (13) of this section 566

does not apply to medical savings account deposits and earnings 567
otherwise deducted or excluded for the current or any other 568
taxable year from the taxpayer's federal adjusted gross income. 569

(14) (a) Add an amount equal to the funds withdrawn from a 570
medical savings account during the taxable year, and the net 571
investment earnings on those funds, when the funds withdrawn 572
were used for any purpose other than to reimburse an account 573
holder for, or to pay, eligible medical expenses, in accordance 574
with section 3924.66 of the Revised Code; 575

(b) Add the amounts distributed from a medical savings 576
account under division (A) (2) of section 3924.68 of the Revised 577
Code during the taxable year. 578

(15) Add any amount claimed as a credit under section 579
5747.059 of the Revised Code to the extent that such amount 580
satisfies either of the following: 581

(a) The amount was deducted or excluded from the 582
computation of the taxpayer's federal adjusted gross income as 583
required to be reported for the taxpayer's taxable year under 584
the Internal Revenue Code; 585

(b) The amount resulted in a reduction of the taxpayer's 586
federal adjusted gross income as required to be reported for any 587
of the taxpayer's taxable years under the Internal Revenue Code. 588

(16) Deduct the amount contributed by the taxpayer to an 589
individual development account program established by a county 590
department of job and family services pursuant to sections 591
329.11 to 329.14 of the Revised Code for the purpose of matching 592
funds deposited by program participants. On request of the tax 593
commissioner, the taxpayer shall provide any information that, 594
in the tax commissioner's opinion, is necessary to establish the 595

amount deducted under division (A)(16) of this section. 596

(17)(a)(i) Subject to divisions (A)(17)(a)(iii), (iv), and 597
(v) of this section, add five-sixths of the amount of 598
depreciation expense allowed by subsection (k) of section 168 of 599
the Internal Revenue Code, including the taxpayer's 600
proportionate or distributive share of the amount of 601
depreciation expense allowed by that subsection to a pass- 602
through entity in which the taxpayer has a direct or indirect 603
ownership interest. 604

(ii) Subject to divisions (A)(17)(a)(iii), (iv), and (v) 605
of this section, add five-sixths of the amount of qualifying 606
section 179 depreciation expense, including the taxpayer's 607
proportionate or distributive share of the amount of qualifying 608
section 179 depreciation expense allowed to any pass-through 609
entity in which the taxpayer has a direct or indirect ownership 610
interest. 611

(iii) Subject to division (A)(17)(a)(v) of this section, 612
for taxable years beginning in 2012 or thereafter, if the 613
increase in income taxes withheld by the taxpayer is equal to or 614
greater than ten per cent of income taxes withheld by the 615
taxpayer during the taxpayer's immediately preceding taxable 616
year, "two-thirds" shall be substituted for "five-sixths" for 617
the purpose of divisions (A)(17)(a)(i) and (ii) of this section. 618

(iv) Subject to division (A)(17)(a)(v) of this section, 619
for taxable years beginning in 2012 or thereafter, a taxpayer is 620
not required to add an amount under division (A)(17) of this 621
section if the increase in income taxes withheld by the taxpayer 622
and by any pass-through entity in which the taxpayer has a 623
direct or indirect ownership interest is equal to or greater 624
than the sum of (I) the amount of qualifying section 179 625

depreciation expense and (II) the amount of depreciation expense 626
allowed to the taxpayer by subsection (k) of section 168 of the 627
Internal Revenue Code, and including the taxpayer's 628
proportionate or distributive shares of such amounts allowed to 629
any such pass-through entities. 630

(v) If a taxpayer directly or indirectly incurs a net 631
operating loss for the taxable year for federal income tax 632
purposes, to the extent such loss resulted from depreciation 633
expense allowed by subsection (k) of section 168 of the Internal 634
Revenue Code and by qualifying section 179 depreciation expense, 635
"the entire" shall be substituted for "five-sixths of the" for 636
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 637

The tax commissioner, under procedures established by the 638
commissioner, may waive the add-backs related to a pass-through 639
entity if the taxpayer owns, directly or indirectly, less than 640
five per cent of the pass-through entity. 641

(b) Nothing in division (A) (17) of this section shall be 642
construed to adjust or modify the adjusted basis of any asset. 643

(c) To the extent the add-back required under division (A) 644
(17) (a) of this section is attributable to property generating 645
nonbusiness income or loss allocated under section 5747.20 of 646
the Revised Code, the add-back shall be situated to the same 647
location as the nonbusiness income or loss generated by the 648
property for the purpose of determining the credit under 649
division (A) of section 5747.05 of the Revised Code. Otherwise, 650
the add-back shall be apportioned, subject to one or more of the 651
four alternative methods of apportionment enumerated in section 652
5747.21 of the Revised Code. 653

(d) For the purposes of division (A) (17) (a) (v) of this 654

section, net operating loss carryback and carryforward shall not 655
include the allowance of any net operating loss deduction 656
carryback or carryforward to the taxable year to the extent such 657
loss resulted from depreciation allowed by section 168(k) of the 658
Internal Revenue Code and by the qualifying section 179 659
depreciation expense amount. 660

(e) For the purposes of divisions (A)(17) and (18) of this 661
section: 662

(i) "Income taxes withheld" means the total amount 663
withheld and remitted under sections 5747.06 and 5747.07 of the 664
Revised Code by an employer during the employer's taxable year. 665

(ii) "Increase in income taxes withheld" means the amount 666
by which the amount of income taxes withheld by an employer 667
during the employer's current taxable year exceeds the amount of 668
income taxes withheld by that employer during the employer's 669
immediately preceding taxable year. 670

(iii) "Qualifying section 179 depreciation expense" means 671
the difference between (I) the amount of depreciation expense 672
directly or indirectly allowed to a taxpayer under section 179 673
of the Internal Revised Code, and (II) the amount of 674
depreciation expense directly or indirectly allowed to the 675
taxpayer under section 179 of the Internal Revenue Code as that 676
section existed on December 31, 2002. 677

(18)(a) If the taxpayer was required to add an amount 678
under division (A)(17)(a) of this section for a taxable year, 679
deduct one of the following: 680

(i) One-fifth of the amount so added for each of the five 681
succeeding taxable years if the amount so added was five-sixths 682
of qualifying section 179 depreciation expense or depreciation 683

expense allowed by subsection (k) of section 168 of the Internal Revenue Code; (ii) One-half of the amount so added for each of the two succeeding taxable years if the amount so added was two-thirds of such depreciation expense; (iii) One-sixth of the amount so added for each of the six succeeding taxable years if the entire amount of such depreciation expense was so added. (b) If the amount deducted under division (A) (18) (a) of this section is attributable to an add-back allocated under division (A) (17) (c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code. (c) No deduction is available under division (A) (18) (a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A) (18) (a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A) (17) (a) of this section has been deducted.

(19) Deduct, to the extent not otherwise deducted or 713
excluded in computing federal or Ohio adjusted gross income for 714
the taxable year, the amount the taxpayer received during the 715
taxable year as reimbursement for life insurance premiums under 716
section 5919.31 of the Revised Code. 717

(20) Deduct, to the extent not otherwise deducted or 718
excluded in computing federal or Ohio adjusted gross income for 719
the taxable year, the amount the taxpayer received during the 720
taxable year as a death benefit paid by the adjutant general 721
under section 5919.33 of the Revised Code. 722

(21) Deduct, to the extent included in federal adjusted 723
gross income and not otherwise allowable as a deduction or 724
exclusion in computing federal or Ohio adjusted gross income for 725
the taxable year, military pay and allowances received by the 726
taxpayer during the taxable year for active duty service in the 727
United States army, air force, navy, marine corps, or coast 728
guard or reserve components thereof or the national guard. The 729
deduction may not be claimed for military pay and allowances 730
received by the taxpayer while the taxpayer is stationed in this 731
state. 732

(22) Deduct, to the extent not otherwise allowable as a 733
deduction or exclusion in computing federal or Ohio adjusted 734
gross income for the taxable year and not otherwise compensated 735
for by any other source, the amount of qualified organ donation 736
expenses incurred by the taxpayer during the taxable year, not 737
to exceed ten thousand dollars. A taxpayer may deduct qualified 738
organ donation expenses only once for all taxable years 739
beginning with taxable years beginning in 2007. 740

For the purposes of division (A) (22) of this section: 741

(a) "Human organ" means all or any portion of a human 742
liver, pancreas, kidney, intestine, or lung, and any portion of 743
human bone marrow. 744

(b) "Qualified organ donation expenses" means travel 745
expenses, lodging expenses, and wages and salary forgone by a 746
taxpayer in connection with the taxpayer's donation, while 747
living, of one or more of the taxpayer's human organs to another 748
human being. 749

(23) Deduct, to the extent not otherwise deducted or 750
excluded in computing federal or Ohio adjusted gross income for 751
the taxable year, amounts received by the taxpayer as retired 752
personnel pay for service in the uniformed services or reserve 753
components thereof, or the national guard, or received by the 754
surviving spouse or former spouse of such a taxpayer under the 755
survivor benefit plan on account of such a taxpayer's death. If 756
the taxpayer receives income on account of retirement paid under 757
the federal civil service retirement system or federal employees 758
retirement system, or under any successor retirement program 759
enacted by the congress of the United States that is established 760
and maintained for retired employees of the United States 761
government, and such retirement income is based, in whole or in 762
part, on credit for the taxpayer's uniformed service, the 763
deduction allowed under this division shall include only that 764
portion of such retirement income that is attributable to the 765
taxpayer's uniformed service, to the extent that portion of such 766
retirement income is otherwise included in federal adjusted 767
gross income and is not otherwise deducted under this section. 768
Any amount deducted under division (A) (23) of this section is 769
not included in a taxpayer's adjusted gross income for the 770
purposes of section 5747.055 of the Revised Code. No amount may 771
be deducted under division (A) (23) of this section on the basis 772

of which a credit was claimed under section 5747.055 of the 773
Revised Code. 774

(24) Deduct, to the extent not otherwise deducted or 775
excluded in computing federal or Ohio adjusted gross income for 776
the taxable year, the amount the taxpayer received during the 777
taxable year from the military injury relief fund created in 778
section 5902.05 of the Revised Code. 779

(25) Deduct, to the extent not otherwise deducted or 780
excluded in computing federal or Ohio adjusted gross income for 781
the taxable year, the amount the taxpayer received as a veterans 782
bonus during the taxable year from the Ohio department of 783
veterans services as authorized by Section 2r of Article VIII, 784
Ohio Constitution. 785

(26) Deduct, to the extent not otherwise deducted or 786
excluded in computing federal or Ohio adjusted gross income for 787
the taxable year, any income derived from a transfer agreement 788
or from the enterprise transferred under that agreement under 789
section 4313.02 of the Revised Code. 790

(27) Deduct, to the extent not otherwise deducted or 791
excluded in computing federal or Ohio adjusted gross income for 792
the taxable year, Ohio college opportunity or federal Pell grant 793
amounts received by the taxpayer or the taxpayer's spouse or 794
dependent pursuant to section 3333.122 of the Revised Code or 20 795
U.S.C. 1070a, et seq., and used to pay room or board furnished 796
by the educational institution for which the grant was awarded 797
at the institution's facilities, including meal plans 798
administered by the institution. For the purposes of this 799
division, receipt of a grant includes the distribution of a 800
grant directly to an educational institution and the crediting 801
of the grant to the enrollee's account with the institution. 802

(28) Deduct from the portion of an individual's federal 803
adjusted gross income that is business income, to the extent not 804
otherwise deducted or excluded in computing federal adjusted 805
gross income for the taxable year, one hundred twenty-five 806
thousand dollars for each spouse if spouses file separate 807
returns under section 5747.08 of the Revised Code or two hundred 808
fifty thousand dollars for all other individuals. 809

(29) Deduct, as provided under section 5747.78 of the 810
Revised Code, contributions to ABLE savings accounts made in 811
accordance with sections 113.50 to 113.56 of the Revised Code. 812

(30)(a) Deduct, to the extent not otherwise deducted or 813
excluded in computing federal or Ohio adjusted gross income 814
during the taxable year, all of the following: 815

(i) Compensation paid to a qualifying employee described 816
in division (A)(14)(a) of section 5703.94 of the Revised Code to 817
the extent such compensation is for disaster work conducted in 818
this state during a disaster response period pursuant to a 819
qualifying solicitation received by the employee's employer; 820

(ii) Compensation paid to a qualifying employee described 821
in division (A)(14)(b) of section 5703.94 of the Revised Code to 822
the extent such compensation is for disaster work conducted in 823
this state by the employee during the disaster response period 824
on critical infrastructure owned or used by the employee's 825
employer; 826

(iii) Income received by an out-of-state disaster business 827
for disaster work conducted in this state during a disaster 828
response period, or, if the out-of-state disaster business is a 829
pass-through entity, a taxpayer's distributive share of the 830
pass-through entity's income from the business conducting 831

disaster work in this state during a disaster response period, 832
if, in either case, the disaster work is conducted pursuant to a 833
qualifying solicitation received by the business. 834

(b) All terms used in division (A) (30) of this section 835
have the same meanings as in section 5703.94 of the Revised 836
Code. 837

(31) For a taxpayer who is a qualifying Ohio educator, 838
deduct, to the extent not otherwise deducted or excluded in 839
computing federal or Ohio adjusted gross income for the taxable 840
year, the lesser of two hundred fifty dollars or the amount of 841
expenses described in subsections (a) (2) (D) (i) and (ii) of 842
section 62 of the Internal Revenue Code paid or incurred by the 843
taxpayer during the taxpayer's taxable year in excess of the 844
amount the taxpayer is authorized to deduct for that taxable 845
year under subsection (a) (2) (D) of that section. 846

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 847
excluded in computing federal or Ohio adjusted gross income for 848
the taxable year, amounts received by the taxpayer as a 849
disability severance payment, computed under 10 U.S.C. 1212, 850
following discharge or release under honorable conditions from 851
the armed forces, as defined by 10 U.S.C. 101. 852

(33) (a) Deduct the amounts described in division (A) of 853
section 193.05 of the Revised Code pertaining to deposits made 854
to, and the interest and other income on the principal balance 855
of, a first-time home buyer savings account during the taxable 856
year. The deduction allowed by division (A) (33) (a) of this 857
section does not apply to first-time home buyer savings account 858
deposits and earnings otherwise deducted or excluded for the 859
current or any other taxable year from the taxpayer's federal 860
adjusted gross income. 861

(b) Add the amounts described in division (B) of section 862
193.05 of the Revised Code pertaining to withdrawals from a 863
first-time home buyer savings account during the taxable year 864
that are not used to pay eligible costs for the purchase of a 865
single-family residence by a qualified beneficiary, investment 866
earnings on such withdrawals, and amounts remaining in a first- 867
time home buyer savings account on the thirty-first day of 868
December of the fourth taxable year following the taxable year 869
that the account holder first designated a first-time home buyer 870
savings account under section 193.02 of the Revised Code. 871

(B) "Business income" means income, including gain or 872
loss, arising from transactions, activities, and sources in the 873
regular course of a trade or business and includes income, gain, 874
or loss from real property, tangible property, and intangible 875
property if the acquisition, rental, management, and disposition 876
of the property constitute integral parts of the regular course 877
of a trade or business operation. "Business income" includes 878
income, including gain or loss, from a partial or complete 879
liquidation of a business, including, but not limited to, gain 880
or loss from the sale or other disposition of goodwill. 881

(C) "Nonbusiness income" means all income other than 882
business income and may include, but is not limited to, 883
compensation, rents and royalties from real or tangible personal 884
property, capital gains, interest, dividends and distributions, 885
patent or copyright royalties, or lottery winnings, prizes, and 886
awards. 887

(D) "Compensation" means any form of remuneration paid to 888
an employee for personal services. 889

(E) "Fiduciary" means a guardian, trustee, executor, 890
administrator, receiver, conservator, or any other person acting 891

in any fiduciary capacity for any individual, trust, or estate. 892

(F) "Fiscal year" means an accounting period of twelve 893
months ending on the last day of any month other than December. 894

(G) "Individual" means any natural person. 895

(H) "Internal Revenue Code" means the "Internal Revenue 896
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 897

(I) "Resident" means any of the following: 898

(1) An individual who is domiciled in this state, subject 899
to section 5747.24 of the Revised Code; 900

(2) The estate of a decedent who at the time of death was 901
domiciled in this state. The domicile tests of section 5747.24 902
of the Revised Code are not controlling for purposes of division 903
(I) (2) of this section. 904

(3) A trust that, in whole or part, resides in this state. 905
If only part of a trust resides in this state, the trust is a 906
resident only with respect to that part. 907

For the purposes of division (I) (3) of this section: 908

(a) A trust resides in this state for the trust's current 909
taxable year to the extent, as described in division (I) (3) (d) 910
of this section, that the trust consists directly or indirectly, 911
in whole or in part, of assets, net of any related liabilities, 912
that were transferred, or caused to be transferred, directly or 913
indirectly, to the trust by any of the following: 914

(i) A person, a court, or a governmental entity or 915
instrumentality on account of the death of a decedent, but only 916
if the trust is described in division (I) (3) (e) (i) or (ii) of 917
this section; 918

(ii) A person who was domiciled in this state for the 919
purposes of this chapter when the person directly or indirectly 920
transferred assets to an irrevocable trust, but only if at least 921
one of the trust's qualifying beneficiaries is domiciled in this 922
state for the purposes of this chapter during all or some 923
portion of the trust's current taxable year; 924

(iii) A person who was domiciled in this state for the 925
purposes of this chapter when the trust document or instrument 926
or part of the trust document or instrument became irrevocable, 927
but only if at least one of the trust's qualifying beneficiaries 928
is a resident domiciled in this state for the purposes of this 929
chapter during all or some portion of the trust's current 930
taxable year. If a trust document or instrument became 931
irrevocable upon the death of a person who at the time of death 932
was domiciled in this state for purposes of this chapter, that 933
person is a person described in division (I) (3) (a) (iii) of this 934
section. 935

(b) A trust is irrevocable to the extent that the 936
transferor is not considered to be the owner of the net assets 937
of the trust under sections 671 to 678 of the Internal Revenue 938
Code. 939

(c) With respect to a trust other than a charitable lead 940
trust, "qualifying beneficiary" has the same meaning as 941
"potential current beneficiary" as defined in section 1361(e) (2) 942
of the Internal Revenue Code, and with respect to a charitable 943
lead trust "qualifying beneficiary" is any current, future, or 944
contingent beneficiary, but with respect to any trust 945
"qualifying beneficiary" excludes a person or a governmental 946
entity or instrumentality to any of which a contribution would 947
qualify for the charitable deduction under section 170 of the 948

Internal Revenue Code. 949

(d) For the purposes of division (I)(3)(a) of this 950
section, the extent to which a trust consists directly or 951
indirectly, in whole or in part, of assets, net of any related 952
liabilities, that were transferred directly or indirectly, in 953
whole or part, to the trust by any of the sources enumerated in 954
that division shall be ascertained by multiplying the fair 955
market value of the trust's assets, net of related liabilities, 956
by the qualifying ratio, which shall be computed as follows: 957

(i) The first time the trust receives assets, the 958
numerator of the qualifying ratio is the fair market value of 959
those assets at that time, net of any related liabilities, from 960
sources enumerated in division (I)(3)(a) of this section. The 961
denominator of the qualifying ratio is the fair market value of 962
all the trust's assets at that time, net of any related 963
liabilities. 964

(ii) Each subsequent time the trust receives assets, a 965
revised qualifying ratio shall be computed. The numerator of the 966
revised qualifying ratio is the sum of (1) the fair market value 967
of the trust's assets immediately prior to the subsequent 968
transfer, net of any related liabilities, multiplied by the 969
qualifying ratio last computed without regard to the subsequent 970
transfer, and (2) the fair market value of the subsequently 971
transferred assets at the time transferred, net of any related 972
liabilities, from sources enumerated in division (I)(3)(a) of 973
this section. The denominator of the revised qualifying ratio is 974
the fair market value of all the trust's assets immediately 975
after the subsequent transfer, net of any related liabilities. 976

(iii) Whether a transfer to the trust is by or from any of 977
the sources enumerated in division (I)(3)(a) of this section 978

shall be ascertained without regard to the domicile of the 979
trust's beneficiaries. 980

(e) For the purposes of division (I)(3)(a)(i) of this 981
section: 982

(i) A trust is described in division (I)(3)(e)(i) of this 983
section if the trust is a testamentary trust and the testator of 984
that testamentary trust was domiciled in this state at the time 985
of the testator's death for purposes of the taxes levied under 986
Chapter 5731. of the Revised Code. 987

(ii) A trust is described in division (I)(3)(e)(ii) of 988
this section if the transfer is a qualifying transfer described 989
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 990
trust is an irrevocable inter vivos trust, and at least one of 991
the trust's qualifying beneficiaries is domiciled in this state 992
for purposes of this chapter during all or some portion of the 993
trust's current taxable year. 994

(f) For the purposes of division (I)(3)(e)(ii) of this 995
section, a "qualifying transfer" is a transfer of assets, net of 996
any related liabilities, directly or indirectly to a trust, if 997
the transfer is described in any of the following: 998

(i) The transfer is made to a trust, created by the 999
decedent before the decedent's death and while the decedent was 1000
domiciled in this state for the purposes of this chapter, and, 1001
prior to the death of the decedent, the trust became irrevocable 1002
while the decedent was domiciled in this state for the purposes 1003
of this chapter. 1004

(ii) The transfer is made to a trust to which the 1005
decedent, prior to the decedent's death, had directly or 1006
indirectly transferred assets, net of any related liabilities, 1007

while the decedent was domiciled in this state for the purposes 1008
of this chapter, and prior to the death of the decedent the 1009
trust became irrevocable while the decedent was domiciled in 1010
this state for the purposes of this chapter. 1011

(iii) The transfer is made on account of a contractual 1012
relationship existing directly or indirectly between the 1013
transferor and either the decedent or the estate of the decedent 1014
at any time prior to the date of the decedent's death, and the 1015
decedent was domiciled in this state at the time of death for 1016
purposes of the taxes levied under Chapter 5731. of the Revised 1017
Code. 1018

(iv) The transfer is made to a trust on account of a 1019
contractual relationship existing directly or indirectly between 1020
the transferor and another person who at the time of the 1021
decedent's death was domiciled in this state for purposes of 1022
this chapter. 1023

(v) The transfer is made to a trust on account of the will 1024
of a testator who was domiciled in this state at the time of the 1025
testator's death for purposes of the taxes levied under Chapter 1026
5731. of the Revised Code. 1027

(vi) The transfer is made to a trust created by or caused 1028
to be created by a court, and the trust was directly or 1029
indirectly created in connection with or as a result of the 1030
death of an individual who, for purposes of the taxes levied 1031
under Chapter 5731. of the Revised Code, was domiciled in this 1032
state at the time of the individual's death. 1033

(g) The tax commissioner may adopt rules to ascertain the 1034
part of a trust residing in this state. 1035

(J) "Nonresident" means an individual or estate that is 1036

not a resident. An individual who is a resident for only part of 1037
a taxable year is a nonresident for the remainder of that 1038
taxable year. 1039

(K) "Pass-through entity" has the same meaning as in 1040
section 5733.04 of the Revised Code. 1041

(L) "Return" means the notifications and reports required 1042
to be filed pursuant to this chapter for the purpose of 1043
reporting the tax due and includes declarations of estimated tax 1044
when so required. 1045

(M) "Taxable year" means the calendar year or the 1046
taxpayer's fiscal year ending during the calendar year, or 1047
fractional part thereof, upon which the adjusted gross income is 1048
calculated pursuant to this chapter. 1049

(N) "Taxpayer" means any person subject to the tax imposed 1050
by section 5747.02 of the Revised Code or any pass-through 1051
entity that makes the election under division (D) of section 1052
5747.08 of the Revised Code. 1053

(O) "Dependents" means one of the following: 1054

(1) For taxable years beginning on or after January 1, 1055
2018, and before January 1, 2026, dependents as defined in the 1056
Internal Revenue Code; 1057

(2) For all other taxable years, dependents as defined in 1058
the Internal Revenue Code and as claimed in the taxpayer's 1059
federal income tax return for the taxable year or which the 1060
taxpayer would have been permitted to claim had the taxpayer 1061
filed a federal income tax return. 1062

(P) "Principal county of employment" means, in the case of 1063
a nonresident, the county within the state in which a taxpayer 1064

performs services for an employer or, if those services are 1065
performed in more than one county, the county in which the major 1066
portion of the services are performed. 1067

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1068
Code: 1069

(1) "Subdivision" means any county, municipal corporation, 1070
park district, or township. 1071

(2) "Essential local government purposes" includes all 1072
functions that any subdivision is required by general law to 1073
exercise, including like functions that are exercised under a 1074
charter adopted pursuant to the Ohio Constitution. 1075

(R) "Overpayment" means any amount already paid that 1076
exceeds the figure determined to be the correct amount of the 1077
tax. 1078

(S) "Taxable income" or "Ohio taxable income" applies only 1079
to estates and trusts, and means federal taxable income, as 1080
defined and used in the Internal Revenue Code, adjusted as 1081
follows: 1082

(1) Add interest or dividends, net of ordinary, necessary, 1083
and reasonable expenses not deducted in computing federal 1084
taxable income, on obligations or securities of any state or of 1085
any political subdivision or authority of any state, other than 1086
this state and its subdivisions and authorities, but only to the 1087
extent that such net amount is not otherwise includible in Ohio 1088
taxable income and is described in either division (S)(1)(a) or 1089
(b) of this section: 1090

(a) The net amount is not attributable to the S portion of 1091
an electing small business trust and has not been distributed to 1092
beneficiaries for the taxable year; 1093

(b) The net amount is attributable to the S portion of an 1094
electing small business trust for the taxable year. 1095

(2) Add interest or dividends, net of ordinary, necessary, 1096
and reasonable expenses not deducted in computing federal 1097
taxable income, on obligations of any authority, commission, 1098
instrumentality, territory, or possession of the United States 1099
to the extent that the interest or dividends are exempt from 1100
federal income taxes but not from state income taxes, but only 1101
to the extent that such net amount is not otherwise includible 1102
in Ohio taxable income and is described in either division (S) 1103
(1) (a) or (b) of this section; 1104

(3) Add the amount of personal exemption allowed to the 1105
estate pursuant to section 642(b) of the Internal Revenue Code; 1106

(4) Deduct interest or dividends, net of related expenses 1107
deducted in computing federal taxable income, on obligations of 1108
the United States and its territories and possessions or of any 1109
authority, commission, or instrumentality of the United States 1110
to the extent that the interest or dividends are exempt from 1111
state taxes under the laws of the United States, but only to the 1112
extent that such amount is included in federal taxable income 1113
and is described in either division (S) (1) (a) or (b) of this 1114
section; 1115

(5) Deduct the amount of wages and salaries, if any, not 1116
otherwise allowable as a deduction but that would have been 1117
allowable as a deduction in computing federal taxable income for 1118
the taxable year, had the targeted jobs credit allowed under 1119
sections 38, 51, and 52 of the Internal Revenue Code not been in 1120
effect, but only to the extent such amount relates either to 1121
income included in federal taxable income for the taxable year 1122
or to income of the S portion of an electing small business 1123

trust for the taxable year; 1124

(6) Deduct any interest or interest equivalent, net of 1125
related expenses deducted in computing federal taxable income, 1126
on public obligations and purchase obligations, but only to the 1127
extent that such net amount relates either to income included in 1128
federal taxable income for the taxable year or to income of the 1129
S portion of an electing small business trust for the taxable 1130
year; 1131

(7) Add any loss or deduct any gain resulting from sale, 1132
exchange, or other disposition of public obligations to the 1133
extent that such loss has been deducted or such gain has been 1134
included in computing either federal taxable income or income of 1135
the S portion of an electing small business trust for the 1136
taxable year; 1137

(8) Except in the case of the final return of an estate, 1138
add any amount deducted by the taxpayer on both its Ohio estate 1139
tax return pursuant to section 5731.14 of the Revised Code, and 1140
on its federal income tax return in determining federal taxable 1141
income; 1142

(9) (a) Deduct any amount included in federal taxable 1143
income solely because the amount represents a reimbursement or 1144
refund of expenses that in a previous year the decedent had 1145
deducted as an itemized deduction pursuant to section 63 of the 1146
Internal Revenue Code and applicable treasury regulations. The 1147
deduction otherwise allowed under division (S) (9) (a) of this 1148
section shall be reduced to the extent the reimbursement is 1149
attributable to an amount the taxpayer or decedent deducted 1150
under this section in any taxable year. 1151

(b) Add any amount not otherwise included in Ohio taxable 1152

income for any taxable year to the extent that the amount is 1153
attributable to the recovery during the taxable year of any 1154
amount deducted or excluded in computing federal or Ohio taxable 1155
income in any taxable year, but only to the extent such amount 1156
has not been distributed to beneficiaries for the taxable year. 1157

(10) Deduct any portion of the deduction described in 1158
section 1341(a)(2) of the Internal Revenue Code, for repaying 1159
previously reported income received under a claim of right, that 1160
meets both of the following requirements: 1161

(a) It is allowable for repayment of an item that was 1162
included in the taxpayer's taxable income or the decedent's 1163
adjusted gross income for a prior taxable year and did not 1164
qualify for a credit under division (A) or (B) of section 1165
5747.05 of the Revised Code for that year. 1166

(b) It does not otherwise reduce the taxpayer's taxable 1167
income or the decedent's adjusted gross income for the current 1168
or any other taxable year. 1169

(11) Add any amount claimed as a credit under section 1170
5747.059 of the Revised Code to the extent that the amount 1171
satisfies either of the following: 1172

(a) The amount was deducted or excluded from the 1173
computation of the taxpayer's federal taxable income as required 1174
to be reported for the taxpayer's taxable year under the 1175
Internal Revenue Code; 1176

(b) The amount resulted in a reduction in the taxpayer's 1177
federal taxable income as required to be reported for any of the 1178
taxpayer's taxable years under the Internal Revenue Code. 1179

(12) Deduct any amount, net of related expenses deducted 1180
in computing federal taxable income, that a trust is required to 1181

report as farm income on its federal income tax return, but only 1182
if the assets of the trust include at least ten acres of land 1183
satisfying the definition of "land devoted exclusively to 1184
agricultural use" under section 5713.30 of the Revised Code, 1185
regardless of whether the land is valued for tax purposes as 1186
such land under sections 5713.30 to 5713.38 of the Revised Code. 1187
If the trust is a pass-through entity investor, section 5747.231 1188
of the Revised Code applies in ascertaining if the trust is 1189
eligible to claim the deduction provided by division (S) (12) of 1190
this section in connection with the pass-through entity's farm 1191
income. 1192

Except for farm income attributable to the S portion of an 1193
electing small business trust, the deduction provided by 1194
division (S) (12) of this section is allowed only to the extent 1195
that the trust has not distributed such farm income. 1196

(13) Add the net amount of income described in section 1197
641(c) of the Internal Revenue Code to the extent that amount is 1198
not included in federal taxable income. 1199

(14) Add or deduct the amount the taxpayer would be 1200
required to add or deduct under division (A) (17) or (18) of this 1201
section if the taxpayer's Ohio taxable income were computed in 1202
the same manner as an individual's Ohio adjusted gross income is 1203
computed under this section. 1204

(T) "School district income" and "school district income 1205
tax" have the same meanings as in section 5748.01 of the Revised 1206
Code. 1207

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 1208
(7) of this section, "public obligations," "purchase 1209
obligations," and "interest or interest equivalent" have the 1210

same meanings as in section 5709.76 of the Revised Code. 1211

(V) "Limited liability company" means any limited 1212
liability company formed under Chapter 1705. or 1706. of the 1213
Revised Code or under the laws of any other state. 1214

(W) "Pass-through entity investor" means any person who, 1215
during any portion of a taxable year of a pass-through entity, 1216
is a partner, member, shareholder, or equity investor in that 1217
pass-through entity. 1218

(X) "Banking day" has the same meaning as in section 1219
1304.01 of the Revised Code. 1220

(Y) "Month" means a calendar month. 1221

(Z) "Quarter" means the first three months, the second 1222
three months, the third three months, or the last three months 1223
of the taxpayer's taxable year. 1224

(AA) (1) "Modified business income" means the business 1225
income included in a trust's Ohio taxable income after such 1226
taxable income is first reduced by the qualifying trust amount, 1227
if any. 1228

(2) "Qualifying trust amount" of a trust means capital 1229
gains and losses from the sale, exchange, or other disposition 1230
of equity or ownership interests in, or debt obligations of, a 1231
qualifying investee to the extent included in the trust's Ohio 1232
taxable income, but only if the following requirements are 1233
satisfied: 1234

(a) The book value of the qualifying investee's physical 1235
assets in this state and everywhere, as of the last day of the 1236
qualifying investee's fiscal or calendar year ending immediately 1237
prior to the date on which the trust recognizes the gain or 1238

loss, is available to the trust. 1239

(b) The requirements of section 5747.011 of the Revised 1240
Code are satisfied for the trust's taxable year in which the 1241
trust recognizes the gain or loss. 1242

Any gain or loss that is not a qualifying trust amount is 1243
modified business income, qualifying investment income, or 1244
modified nonbusiness income, as the case may be. 1245

(3) "Modified nonbusiness income" means a trust's Ohio 1246
taxable income other than modified business income, other than 1247
the qualifying trust amount, and other than qualifying 1248
investment income, as defined in section 5747.012 of the Revised 1249
Code, to the extent such qualifying investment income is not 1250
otherwise part of modified business income. 1251

(4) "Modified Ohio taxable income" applies only to trusts, 1252
and means the sum of the amounts described in divisions (AA) (4) 1253
(a) to (c) of this section: 1254

(a) The fraction, calculated under section 5747.013, and 1255
applying section 5747.231 of the Revised Code, multiplied by the 1256
sum of the following amounts: 1257

(i) The trust's modified business income; 1258

(ii) The trust's qualifying investment income, as defined 1259
in section 5747.012 of the Revised Code, but only to the extent 1260
the qualifying investment income does not otherwise constitute 1261
modified business income and does not otherwise constitute a 1262
qualifying trust amount. 1263

(b) The qualifying trust amount multiplied by a fraction, 1264
the numerator of which is the sum of the book value of the 1265
qualifying investee's physical assets in this state on the last 1266

day of the qualifying investee's fiscal or calendar year ending 1267
immediately prior to the day on which the trust recognizes the 1268
qualifying trust amount, and the denominator of which is the sum 1269
of the book value of the qualifying investee's total physical 1270
assets everywhere on the last day of the qualifying investee's 1271
fiscal or calendar year ending immediately prior to the day on 1272
which the trust recognizes the qualifying trust amount. If, for 1273
a taxable year, the trust recognizes a qualifying trust amount 1274
with respect to more than one qualifying investee, the amount 1275
described in division (AA) (4) (b) of this section shall equal the 1276
sum of the products so computed for each such qualifying 1277
investee. 1278

(c) (i) With respect to a trust or portion of a trust that 1279
is a resident as ascertained in accordance with division (I) (3) 1280
(d) of this section, its modified nonbusiness income. 1281

(ii) With respect to a trust or portion of a trust that is 1282
not a resident as ascertained in accordance with division (I) (3) 1283
(d) of this section, the amount of its modified nonbusiness 1284
income satisfying the descriptions in divisions (B) (2) to (5) of 1285
section 5747.20 of the Revised Code, except as otherwise 1286
provided in division (AA) (4) (c) (ii) of this section. With 1287
respect to a trust or portion of a trust that is not a resident 1288
as ascertained in accordance with division (I) (3) (d) of this 1289
section, the trust's portion of modified nonbusiness income 1290
recognized from the sale, exchange, or other disposition of a 1291
debt interest in or equity interest in a section 5747.212 1292
entity, as defined in section 5747.212 of the Revised Code, 1293
without regard to division (A) of that section, shall not be 1294
allocated to this state in accordance with section 5747.20 of 1295
the Revised Code but shall be apportioned to this state in 1296
accordance with division (B) of section 5747.212 of the Revised 1297

Code without regard to division (A) of that section. 1298

If the allocation and apportionment of a trust's income 1299
under divisions (AA)(4)(a) and (c) of this section do not fairly 1300
represent the modified Ohio taxable income of the trust in this 1301
state, the alternative methods described in division (C) of 1302
section 5747.21 of the Revised Code may be applied in the manner 1303
and to the same extent provided in that section. 1304

(5)(a) Except as set forth in division (AA)(5)(b) of this 1305
section, "qualifying investee" means a person in which a trust 1306
has an equity or ownership interest, or a person or unit of 1307
government the debt obligations of either of which are owned by 1308
a trust. For the purposes of division (AA)(2)(a) of this section 1309
and for the purpose of computing the fraction described in 1310
division (AA)(4)(b) of this section, all of the following apply: 1311

(i) If the qualifying investee is a member of a qualifying 1312
controlled group on the last day of the qualifying investee's 1313
fiscal or calendar year ending immediately prior to the date on 1314
which the trust recognizes the gain or loss, then "qualifying 1315
investee" includes all persons in the qualifying controlled 1316
group on such last day. 1317

(ii) If the qualifying investee, or if the qualifying 1318
investee and any members of the qualifying controlled group of 1319
which the qualifying investee is a member on the last day of the 1320
qualifying investee's fiscal or calendar year ending immediately 1321
prior to the date on which the trust recognizes the gain or 1322
loss, separately or cumulatively own, directly or indirectly, on 1323
the last day of the qualifying investee's fiscal or calendar 1324
year ending immediately prior to the date on which the trust 1325
recognizes the qualifying trust amount, more than fifty per cent 1326
of the equity of a pass-through entity, then the qualifying 1327

investee and the other members are deemed to own the 1328
proportionate share of the pass-through entity's physical assets 1329
which the pass-through entity directly or indirectly owns on the 1330
last day of the pass-through entity's calendar or fiscal year 1331
ending within or with the last day of the qualifying investee's 1332
fiscal or calendar year ending immediately prior to the date on 1333
which the trust recognizes the qualifying trust amount. 1334

(iii) For the purposes of division (AA) (5) (a) (iii) of this 1335
section, "upper level pass-through entity" means a pass-through 1336
entity directly or indirectly owning any equity of another pass- 1337
through entity, and "lower level pass-through entity" means that 1338
other pass-through entity. 1339

An upper level pass-through entity, whether or not it is 1340
also a qualifying investee, is deemed to own, on the last day of 1341
the upper level pass-through entity's calendar or fiscal year, 1342
the proportionate share of the lower level pass-through entity's 1343
physical assets that the lower level pass-through entity 1344
directly or indirectly owns on the last day of the lower level 1345
pass-through entity's calendar or fiscal year ending within or 1346
with the last day of the upper level pass-through entity's 1347
fiscal or calendar year. If the upper level pass-through entity 1348
directly and indirectly owns less than fifty per cent of the 1349
equity of the lower level pass-through entity on each day of the 1350
upper level pass-through entity's calendar or fiscal year in 1351
which or with which ends the calendar or fiscal year of the 1352
lower level pass-through entity and if, based upon clear and 1353
convincing evidence, complete information about the location and 1354
cost of the physical assets of the lower pass-through entity is 1355
not available to the upper level pass-through entity, then 1356
solely for purposes of ascertaining if a gain or loss 1357
constitutes a qualifying trust amount, the upper level pass- 1358

through entity shall be deemed as owning no equity of the lower 1359
level pass-through entity for each day during the upper level 1360
pass-through entity's calendar or fiscal year in which or with 1361
which ends the lower level pass-through entity's calendar or 1362
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 1363
shall be construed to provide for any deduction or exclusion in 1364
computing any trust's Ohio taxable income. 1365

(b) With respect to a trust that is not a resident for the 1366
taxable year and with respect to a part of a trust that is not a 1367
resident for the taxable year, "qualifying investee" for that 1368
taxable year does not include a C corporation if both of the 1369
following apply: 1370

(i) During the taxable year the trust or part of the trust 1371
recognizes a gain or loss from the sale, exchange, or other 1372
disposition of equity or ownership interests in, or debt 1373
obligations of, the C corporation. 1374

(ii) Such gain or loss constitutes nonbusiness income. 1375

(6) "Available" means information is such that a person is 1376
able to learn of the information by the due date plus 1377
extensions, if any, for filing the return for the taxable year 1378
in which the trust recognizes the gain or loss. 1379

(BB) "Qualifying controlled group" has the same meaning as 1380
in section 5733.04 of the Revised Code. 1381

(CC) "Related member" has the same meaning as in section 1382
5733.042 of the Revised Code. 1383

(DD) (1) For the purposes of division (DD) of this section: 1384

(a) "Qualifying person" means any person other than a 1385
qualifying corporation. 1386

(b) "Qualifying corporation" means any person classified 1387
for federal income tax purposes as an association taxable as a 1388
corporation, except either of the following: 1389

(i) A corporation that has made an election under 1390
subchapter S, chapter one, subtitle A, of the Internal Revenue 1391
Code for its taxable year ending within, or on the last day of, 1392
the investor's taxable year; 1393

(ii) A subsidiary that is wholly owned by any corporation 1394
that has made an election under subchapter S, chapter one, 1395
subtitle A of the Internal Revenue Code for its taxable year 1396
ending within, or on the last day of, the investor's taxable 1397
year. 1398

(2) For the purposes of this chapter, unless expressly 1399
stated otherwise, no qualifying person indirectly owns any asset 1400
directly or indirectly owned by any qualifying corporation. 1401

(EE) For purposes of this chapter and Chapter 5751. of the 1402
Revised Code: 1403

(1) "Trust" does not include a qualified pre-income tax 1404
trust. 1405

(2) A "qualified pre-income tax trust" is any pre-income 1406
tax trust that makes a qualifying pre-income tax trust election 1407
as described in division (EE) (3) of this section. 1408

(3) A "qualifying pre-income tax trust election" is an 1409
election by a pre-income tax trust to subject to the tax imposed 1410
by section 5751.02 of the Revised Code the pre-income tax trust 1411
and all pass-through entities of which the trust owns or 1412
controls, directly, indirectly, or constructively through 1413
related interests, five per cent or more of the ownership or 1414
equity interests. The trustee shall notify the tax commissioner 1415

in writing of the election on or before April 15, 2006. The 1416
election, if timely made, shall be effective on and after 1417
January 1, 2006, and shall apply for all tax periods and tax 1418
years until revoked by the trustee of the trust. 1419

(4) A "pre-income tax trust" is a trust that satisfies all 1420
of the following requirements: 1421

(a) The document or instrument creating the trust was 1422
executed by the grantor before January 1, 1972; 1423

(b) The trust became irrevocable upon the creation of the 1424
trust; and 1425

(c) The grantor was domiciled in this state at the time 1426
the trust was created. 1427

(FF) "Uniformed services" has the same meaning as in 10 1428
U.S.C. 101. 1429

(GG) "Taxable business income" means the amount by which 1430
an individual's business income that is included in federal 1431
adjusted gross income exceeds the amount of business income the 1432
individual is authorized to deduct under division ~~(A) (31)~~ (A) 1433
(28) of this section for the taxable year. 1434

(HH) "Employer" does not include a franchisor with respect 1435
to the franchisor's relationship with a franchisee or an 1436
employee of a franchisee, unless the franchisor agrees to assume 1437
that role in writing or a court of competent jurisdiction 1438
determines that the franchisor exercises a type or degree of 1439
control over the franchisee or the franchisee's employees that 1440
is not customarily exercised by a franchisor for the purpose of 1441
protecting the franchisor's trademark, brand, or both. For 1442
purposes of this division, "franchisor" and "franchisee" have 1443
the same meanings as in 16 C.F.R. 436.1. 1444

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

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

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

(1) "Audited partnership" means a partnership subject to
an examination by the internal revenue service pursuant to
subchapter C, chapter 63, subtitle F of the Internal Revenue
Code resulting in a federal adjustment.

(2) (a) "Direct investor" means a partner or other investor
that holds a direct interest in a pass-through entity.

(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.

(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.

(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 1474
section 6227 of the Internal Revenue Code. 1475

(5) "Federal adjustments return" means the form or other 1476
document prescribed by the tax commissioner for use by a 1477
taxpayer in reporting final federal adjustments. 1478

(6) "State partnership representative" means either of the 1479
following: 1480

(a) The person who served as the partnership's 1481
representative for federal income tax purposes, pursuant to 1482
section 6223(a) of the Internal Revenue Code, during the 1483
corresponding federal partnership audit; 1484

(b) The person designated, on a form prescribed by the tax 1485
commissioner, to serve as the partnership's representative 1486
during the state partnership audit. The commissioner may 1487
establish reasonable qualifications and procedures for a person 1488
to be designated as a state partnership representative under 1489
this division. 1490

(7) A federal adjustment is "final" or "agreed to or 1491
finally determined for federal income tax purposes" on any of 1492
the following: 1493

(a) The day after which the period for appeal of a federal 1494
assessment has expired; 1495

(b) The date on a refund check issued by the internal 1496
revenue service; or 1497

(c) For agreements required to be signed by the internal 1498
revenue service and the taxpayer or audited partnership, the 1499
date on which the last party signed the agreement. 1500

(B) (1) If any of the facts, figures, computations, or 1501

attachments required in a taxpayer's annual return to determine 1502
the tax charged by this chapter or Chapter 5748. of the Revised 1503
Code must be altered as the result of a final federal 1504
adjustment, and the federal adjustment is not required to be 1505
reported under division (C) of this section, the taxpayer shall 1506
file an amended return with the tax commissioner in such form as 1507
the commissioner requires. The amended return shall be filed not 1508
later than ninety days after the federal adjustment has been 1509
agreed to or finally determined for federal income tax purposes. 1510

(2) "One hundred eighty" shall be substituted for "ninety" 1511
in divisions (B)(1) and (E)(1) of this section if, for any 1512
taxable year, the final federal adjustment results from taxes 1513
paid by the taxpayer on an amount described in division ~~(A)(34)~~ 1514
(A)(32) of section 5747.01 of the Revised Code. 1515

(C) Except for adjustments required to be reported for 1516
federal purposes pursuant to section 6225(a)(2) of the Internal 1517
Revenue Code and adjustments that are taken into account on a 1518
federal amended return or similar report filed pursuant to 1519
section 6225(c)(2) of the Internal Revenue Code, partnerships 1520
and partners shall report final federal adjustments and make 1521
payments as required under division (C) of this section. 1522

(1) With respect to an action required or permitted to be 1523
taken by a partnership under this section, and any petition for 1524
reassessment or appeal to the board of tax appeals or any court 1525
with respect to such an action, the state partnership 1526
representative shall have the sole authority to act on behalf of 1527
the audited partnership, and the partnership's direct and 1528
indirect investors shall be bound by those actions. 1529

(2) Unless an audited partnership makes the election under 1530
division (C)(3) of this section: 1531

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

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

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

(iii) File an amended tax return on behalf of its
nonresident direct investors and pay any additional tax that
would have been due under sections 5733.41 and 5747.41, or
division (D) of section 5747.08, of the Revised Code with
respect to those direct investors had the final federal
adjustments been reported properly on the original filing.

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

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

this section. 1561

(ii) Such direct and indirect investors shall make the 1562
required returns and payments within ninety days after the 1563
deadline for filing and furnishing statements under section 1564
6226(b)(4) of the Internal Revenue Code and applicable treasury 1565
regulations. 1566

(3) If an audited partnership makes the election under 1567
this division, the audited partnership, through its state 1568
partnership representative, shall do all of the following within 1569
ninety days after all federal adjustments are final: 1570

(a) File a federal adjustments return with the tax 1571
commissioner indicating the partnership has made the election 1572
under division (C)(3) of this section; 1573

(b) Pay the amount of combined additional tax due under 1574
division (D)(2) of this section, calculated by multiplying the 1575
highest rate of tax set forth in section 5747.02 of the Revised 1576
Code by the sum of the following: 1577

(i) The distributive shares of the final federal 1578
adjustments that are allocable or apportionable to this state of 1579
each investor who is a nonresident taxpayer or pass-through 1580
entity; 1581

(ii) The distributive share of the final federal 1582
adjustments for each investor who is a resident taxpayer. 1583

(c) Notify each of its direct investors, on a form 1584
prescribed by the commissioner, of the investor's distributive 1585
share of the final federal adjustments and the amount paid on 1586
their behalf pursuant to division (C)(3)(b) of this section. 1587

(4)(a) A direct investor of an audited partnership is not 1588

required to file an amended return or pay tax otherwise due 1589
under section 5747.02 of the Revised Code if the audited 1590
partnership properly reports and pays the tax under division (C) 1591
(3) of this section. 1592

(b) (i) Nothing in division (C) of this section precludes a 1593
direct or indirect investor in the audited partnership from 1594
filing a return to report the investor's share of the final 1595
federal adjustments. Such an investor who files a return and 1596
reports the income related to the final federal adjustments is 1597
entitled to a refundable credit for taxes paid by the audited 1598
partnership under division (C) (3) (b) of this section. The credit 1599
shall be computed and claimed in the same manner as the credit 1600
allowed under division (I) of section 5747.08 of the Revised 1601
Code. 1602

(ii) Notwithstanding division (C) (4) (b) (i) of this 1603
section, an exempt partner, whether a direct or indirect 1604
investor, may file an application for refund of its 1605
proportionate share of the amounts erroneously paid by the 1606
audited partnership pursuant to division (C) (3) (b) of this 1607
section on the exempt partner's behalf. 1608

(5) Upon request by an audited partnership, the tax 1609
commissioner may agree, in writing, to allow an alternative 1610
method of reporting and payment than required by ~~divisions~~ 1611
division (C) (2) or (3) of this section. The request must be 1612
submitted to the commissioner in writing before the applicable 1613
deadline for filing a return under division (C) (2) (a) or (3) of 1614
this section. The commissioner's decision on whether to enter 1615
into an agreement under this division is not subject to further 1616
administrative review or appeal. 1617

(6) Nothing in division (C) of this section precludes 1618

either of the following: 1619

(a) A resident taxpayer from filing a return to claim the 1620
credit under division (B) of section 5747.05 or division (D) (2) 1621
of section 5747.02 of the Revised Code based upon any amounts 1622
paid by the audited partnership on such investor's behalf to 1623
another state. 1624

(b) The tax commissioner from issuing an assessment under 1625
this chapter against any direct or indirect investor for taxes 1626
due from the investor if an audited partnership, or direct and 1627
indirect investor of an audited partnership that is a pass- 1628
through entity, fails to timely file any return or remit any 1629
payment required by this section or underreports income or 1630
underpays tax on behalf of an indirect investor who is a 1631
resident taxpayer. 1632

(D) In the case of an underpayment, and unless otherwise 1633
agreed to in writing by the tax commissioner: 1634

(1) The taxpayer's amended return shall be accompanied by 1635
payment of any combined additional tax due together with 1636
interest thereon. An amended return required by this section is 1637
a return subject to assessment under section 5747.13 of the 1638
Revised Code for the purpose of assessing any additional tax due 1639
under this section, together with any applicable penalty and 1640
interest. It shall not reopen those facts, figures, 1641
computations, or attachments from a previously filed return no 1642
longer subject to assessment that are not affected, either 1643
directly or indirectly, by the final federal adjustment to the 1644
taxpayer's federal income tax return. 1645

(2) The audited partnership's federal adjustments return 1646
shall be accompanied by payment of any combined additional tax 1647

due together with interest thereon. The federal adjustments 1648
return required by this section is a return subject to 1649
assessment under section 5747.13 of the Revised Code for the 1650
purpose of assessing any additional tax due under this section, 1651
together with any applicable penalty and interest. It shall not 1652
reopen those facts, figures, computations, or attachments from a 1653
previously filed return no longer subject to assessment that are 1654
not affected, either directly or indirectly, by the final 1655
federal adjustment. 1656

(3) The tax commissioner may accept estimated payments of 1657
the tax arising from pending federal adjustments before the date 1658
for filing a federal adjustments return. The commissioner may 1659
adopt rules for the payment of such estimated taxes. 1660

(E) In the case of an overpayment, and unless otherwise 1661
agreed to in writing by the tax commissioner: 1662

(1) A taxpayer may file an application for refund under 1663
this division within the ninety-day period prescribed for filing 1664
the amended return even if it is filed beyond the period 1665
prescribed in section 5747.11 of the Revised Code if it 1666
otherwise conforms to the requirements of such section. An 1667
application filed under this division shall claim refund of 1668
overpayments resulting from alterations to only those facts, 1669
figures, computations, or attachments required in the taxpayer's 1670
annual return that are affected, either directly or indirectly, 1671
by the final federal adjustment to the taxpayer's federal income 1672
tax return unless it is also filed within the time prescribed in 1673
section 5747.11 of the Revised Code. It shall not reopen those 1674
facts, figures, computations, or attachments that are not 1675
affected, either directly or indirectly, by the adjustment to 1676
the taxpayer's federal income tax return. 1677

(2) (a) Except as otherwise provided in division (E) (2) (b) 1678
of this section, an audited partnership may file an application 1679
for a refund under this division within the ninety-day period 1680
prescribed for filing the federal adjustments return, even if it 1681
is filed beyond the period prescribed by section 5747.11 of the 1682
Revised Code, if it otherwise conforms to the requirements of 1683
that section. An application filed under this division may claim 1684
a refund of overpayments resulting only from final federal 1685
adjustments unless it is also filed within the time prescribed 1686
by section 5747.11 of the Revised Code. It shall not reopen 1687
those facts, figures, computations, or attachments that are not 1688
affected, either directly or indirectly, by the federal 1689
adjustment. 1690

(b) An audited partnership may not file an application for 1691
refund under division (E) of this section based on final federal 1692
adjustments described in section 6225(a) (2) of the Internal 1693
Revenue Code. 1694

(3) Any refund granted to a pass-through entity filing an 1695
application for refund under division (E) of this section shall 1696
be reduced by amounts previously claimed as a credit under 1697
section 5747.059 or division (I) of section 5747.08 of the 1698
Revised Code by the pass-through entity's direct or indirect 1699
investors. 1700

(F) Excluding the deadline in division (C) (2) (c) (ii) of 1701
this section, an audited partnership, or a direct or indirect 1702
investor of an audited partnership that is a pass-through 1703
entity, may automatically extend the deadline for reporting, 1704
payments, and refunds under this section by sixty days if the 1705
entity has ten thousand or more direct investors and notifies 1706
the commissioner of such extension, in writing, before the 1707

unextended deadline. 1708

Section 2. That existing sections 2921.13, 5747.01, and 1709
5747.10 of the Revised Code are hereby repealed. 1710

Section 3. This act shall be known as the First-time Home 1711
Buyer Savings Act. 1712

Section 4. Section 5747.01 of the Revised Code is 1713
presented in this act as a composite of the section as amended 1714
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 1715
General Assembly. The General Assembly, applying the principle 1716
stated in division (B) of section 1.52 of the Revised Code that 1717
amendments are to be harmonized if reasonably capable of 1718
simultaneous operation, finds that the composite is the 1719
resulting version of the section in effect prior to the 1720
effective date of the section as presented in this act. 1721