

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 507

Representative Gonzales

Cosponsors: Representatives Carfagna, Becker, Miller, Hughes

A BILL

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.79 of the Revised Code to allow a 2
refundable income tax credit for parents of 3
stillborn children. 4

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

Section 1. That sections 5747.08 and 5747.98 be amended 5
and section 5747.79 of the Revised Code be enacted to read as 6
follows: 7

Sec. 5747.08. An annual return with respect to the tax 8
imposed by section 5747.02 of the Revised Code and each tax 9
imposed under Chapter 5748. of the Revised Code shall be made by 10
every taxpayer for any taxable year for which the taxpayer is 11
liable for the tax imposed by that section or under that 12
chapter, unless the total credits allowed under division (E) of 13
section 5747.05 and divisions (F) and (G) of section 5747.055 of 14
the Revised Code for the year are equal to or exceed the tax 15
imposed by section 5747.02 of the Revised Code, in which case no 16
return shall be required unless the taxpayer is liable for a tax 17
imposed pursuant to Chapter 5748. of the Revised Code. 18

(A) If an individual is deceased, any return or notice 19
required of that individual under this chapter shall be made and 20
filed by that decedent's executor, administrator, or other 21
person charged with the property of that decedent. 22

(B) If an individual is unable to make a return or notice 23
required by this chapter, the return or notice required of that 24
individual shall be made and filed by the individual's duly 25
authorized agent, guardian, conservator, fiduciary, or other 26
person charged with the care of the person or property of that 27
individual. 28

(C) Returns or notices required of an estate or a trust 29
shall be made and filed by the fiduciary of the estate or trust. 30

(D) (1) (a) Except as otherwise provided in division (D) (1) 31
(b) of this section, any pass-through entity may file a single 32
return on behalf of one or more of the entity's investors other 33
than an investor that is a person subject to the tax imposed 34
under section 5733.06 of the Revised Code. The single return 35
shall set forth the name, address, and social security number or 36
other identifying number of each of those pass-through entity 37
investors and shall indicate the distributive share of each of 38
those pass-through entity investor's income taxable in this 39
state in accordance with sections 5747.20 to 5747.231 of the 40
Revised Code. Such pass-through entity investors for whom the 41
pass-through entity elects to file a single return are not 42
entitled to the exemption or credit provided for by sections 43
5747.02 and 5747.022 of the Revised Code; shall calculate the 44
tax before business credits at the highest rate of tax set forth 45
in section 5747.02 of the Revised Code for the taxable year for 46
which the return is filed; and are entitled to only their 47
distributive share of the business credits as defined in 48

division (D) (2) of this section. A single check drawn by the 49
pass-through entity shall accompany the return in full payment 50
of the tax due, as shown on the single return, for such 51
investors, other than investors who are persons subject to the 52
tax imposed under section 5733.06 of the Revised Code. 53

(b) (i) A pass-through entity shall not include in such a 54
single return any investor that is a trust to the extent that 55
any direct or indirect current, future, or contingent 56
beneficiary of the trust is a person subject to the tax imposed 57
under section 5733.06 of the Revised Code. 58

(ii) A pass-through entity shall not include in such a 59
single return any investor that is itself a pass-through entity 60
to the extent that any direct or indirect investor in the second 61
pass-through entity is a person subject to the tax imposed under 62
section 5733.06 of the Revised Code. 63

(c) Nothing in division (D) of this section precludes the 64
tax commissioner from requiring such investors to file the 65
return and make the payment of taxes and related interest, 66
penalty, and interest penalty required by this section or 67
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 68
Nothing in division (D) of this section precludes such an 69
investor from filing the annual return under this section, 70
utilizing the refundable credit equal to the investor's 71
proportionate share of the tax paid by the pass-through entity 72
on behalf of the investor under division (I) of this section, 73
and making the payment of taxes imposed under section 5747.02 of 74
the Revised Code. Nothing in division (D) of this section shall 75
be construed to provide to such an investor or pass-through 76
entity any additional deduction or credit, other than the credit 77
provided by division (I) of this section, solely on account of 78

the entity's filing a return in accordance with this section.	79
Such a pass-through entity also shall make the filing and	80
payment of estimated taxes on behalf of the pass-through entity	81
investors other than an investor that is a person subject to the	82
tax imposed under section 5733.06 of the Revised Code.	83
(2) For the purposes of this section, "business credits"	84
means the credits listed in section 5747.98 of the Revised Code	85
excluding the following credits:	86
(a) The retirement income credit under division (B) of	87
section 5747.055 of the Revised Code;	88
(b) The senior citizen credit under division (F) of	89
section 5747.055 of the Revised Code;	90
(c) The lump sum distribution credit under division (G) of	91
section 5747.055 of the Revised Code;	92
(d) The dependent care credit under section 5747.054 of	93
the Revised Code;	94
(e) The lump sum retirement income credit under division	95
(C) of section 5747.055 of the Revised Code;	96
(f) The lump sum retirement income credit under division	97
(D) of section 5747.055 of the Revised Code;	98
(g) The lump sum retirement income credit under division	99
(E) of section 5747.055 of the Revised Code;	100
(h) The credit for displaced workers who pay for job	101
training under section 5747.27 of the Revised Code;	102
(i) The twenty-dollar personal exemption credit under	103
section 5747.022 of the Revised Code;	104
(j) The joint filing credit under division (E) of section	105

5747.05 of the Revised Code;	106
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	107
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	108
(m) The earned income tax credit under section 5747.71 of the Revised Code;	109
<u>(n) The credit for parents of stillborn children under section 5747.79 of the Revised Code.</u>	110
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	111
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of division (D) of this section,	112
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"correct tax due" means the tax that would have been paid by the pass-through entity had the single return been filed in a manner reflecting the commissioner's findings. Nothing in division (D) of this section shall be construed to make or hold a pass-through entity liable for tax attributable to a pass-through entity investor's income from a source other than the pass-through entity electing to file the single return.

(E) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several, but, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this 165
section shall be made and filed as required by section 5747.04 166
of the Revised Code, on or before the fifteenth day of April of 167
each year, on forms that the tax commissioner shall prescribe, 168
together with remittance made payable to the treasurer of state 169
in the combined amount of the state and all school district 170
income taxes shown to be due on the form. 171

Upon good cause shown, the commissioner may extend the 172
period for filing any notice or return required to be filed 173
under this section and may adopt rules relating to extensions. 174
If the extension results in an extension of time for the payment 175
of any state or school district income tax liability with 176
respect to which the return is filed, the taxpayer shall pay at 177
the time the tax liability is paid an amount of interest 178
computed at the rate per annum prescribed by section 5703.47 of 179
the Revised Code on that liability from the time that payment is 180
due without extension to the time of actual payment. Except as 181
provided in section 5747.132 of the Revised Code, in addition to 182
all other interest charges and penalties, all taxes imposed 183
under this chapter or Chapter 5748. of the Revised Code and 184
remaining unpaid after they become due, except combined amounts 185
due of one dollar or less, bear interest at the rate per annum 186
prescribed by section 5703.47 of the Revised Code until paid or 187
until the day an assessment is issued under section 5747.13 of 188
the Revised Code, whichever occurs first. 189

If the commissioner considers it necessary in order to 190
ensure the payment of the tax imposed by section 5747.02 of the 191
Revised Code or any tax imposed under Chapter 5748. of the 192
Revised Code, the commissioner may require returns and payments 193
to be made otherwise than as provided in this section. 194

To the extent that any provision in this division 195
conflicts with any provision in section 5747.026 of the Revised 196
Code, the provision in that section prevails. 197

(H) The amounts withheld by an employer pursuant to 198
section 5747.06 of the Revised Code, a casino operator pursuant 199
to section 5747.063 of the Revised Code, or a lottery sales 200
agent pursuant to section 5747.064 of the Revised Code shall be 201
allowed to the recipient of the compensation casino winnings, or 202
lottery prize award as credits against payment of the 203
appropriate taxes imposed on the recipient by section 5747.02 204
and under Chapter 5748. of the Revised Code. 205

(I) If a pass-through entity elects to file a single 206
return under division (D) of this section and if any investor is 207
required to file the annual return and make the payment of taxes 208
required by this chapter on account of the investor's other 209
income that is not included in a single return filed by a pass- 210
through entity or any other investor elects to file the annual 211
return, the investor is entitled to a refundable credit equal to 212
the investor's proportionate share of the tax paid by the pass- 213
through entity on behalf of the investor. The investor shall 214
claim the credit for the investor's taxable year in which or 215
with which ends the taxable year of the pass-through entity. 216
Nothing in this chapter shall be construed to allow any credit 217
provided in this chapter to be claimed more than once. For the 218
purpose of computing any interest, penalty, or interest penalty, 219
the investor shall be deemed to have paid the refundable credit 220
provided by this division on the day that the pass-through 221
entity paid the estimated tax or the tax giving rise to the 222
credit. 223

(J) The tax commissioner shall ensure that each return 224

required to be filed under this section includes a box that the taxpayer may check to authorize a paid tax preparer who prepared the return to communicate with the department of taxation about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the department of taxation to contact the preparer concerning questions that arise during the processing of the return and authorizes the preparer only to provide the department with information that is missing from the return, to contact the department for information about the processing of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the department and has shown to the preparer.

(K) The tax commissioner shall permit individual taxpayers to instruct the department of taxation to cause any refund of overpaid taxes to be deposited directly into a checking account, savings account, or an individual retirement account or individual retirement annuity, or preexisting college savings plan or program account offered by the Ohio tuition trust authority under Chapter 3334. of the Revised Code, as designated by the taxpayer, when the taxpayer files the annual return required by this section electronically.

(L) The tax commissioner may adopt rules to administer this section.

Sec. 5747.79. There is hereby allowed a refundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code equal to two thousand dollars for each birth for which a certificate recognizing the delivery of a stillborn infant was issued under division (B)(3) of section

3705.23 of the Revised Code. The taxpayer to whom such a 255
certificate is issued shall claim the credit in the taxable year 256
in which the stillbirth occurred. 257

The credit shall be claimed in the order required under 258
section 5747.98 of the Revised Code. If the credit allowed for 259
the taxable year exceeds the aggregate amount of tax otherwise 260
due under section 5747.02 of the Revised Code, after allowing 261
for any other credits preceding the credit in the order 262
prescribed by section 5747.98 of the Revised Code, the excess 263
shall be refunded to the taxpayer. 264

Sec. 5747.98. (A) To provide a uniform procedure for 265
calculating a taxpayer's aggregate tax liability under section 266
5747.02 of the Revised Code, a taxpayer shall claim any credits 267
to which the taxpayer is entitled in the following order: 268

(1) Either the retirement income credit under division (B) 269
of section 5747.055 of the Revised Code or the lump sum 270
retirement income credits under divisions (C), (D), and (E) of 271
that section; 272

(2) Either the senior citizen credit under division (F) of 273
section 5747.055 of the Revised Code or the lump sum 274
distribution credit under division (G) of that section; 275

(3) The dependent care credit under section 5747.054 of 276
the Revised Code; 277

(4) The credit for displaced workers who pay for job 278
training under section 5747.27 of the Revised Code; 279

(5) The campaign contribution credit under section 5747.29 280
of the Revised Code; 281

(6) The twenty-dollar personal exemption credit under 282

section 5747.022 of the Revised Code;	283
(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	284 285
(8) The earned income credit under section 5747.71 of the Revised Code;	286 287
(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	288 289
(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	290 291
(11) The enterprise zone credit under section 5709.66 of the Revised Code;	292 293
(12) The ethanol plant investment credit under section 5747.75 of the Revised Code;	294 295
(13) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	296 297
(14) The small business investment credit under section 5747.81 of the Revised Code;	298 299
(15) The enterprise zone credits under section 5709.65 of the Revised Code;	300 301
(16) The research and development credit under section 5747.331 of the Revised Code;	302 303
(17) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	304 305
(18) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	306 307
(19) The credit for a resident's out-of-state income under	308

division (B) of section 5747.05 of the Revised Code;	309
(20) The refundable motion picture production credit under section 5747.66 of the Revised Code;	310 311
(21) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	312 313 314
(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	315 316
(23) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	317 318 319
(24) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	320 321 322 323
(25) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	324 325
(26) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code;	326 327 328
<u>(27) The refundable credit for parents of stillborn children under section 5747.79 of the Revised Code.</u>	329 330
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credit that precedes it in	331 332 333 334 335 336

the order required under this section. Any excess amount of a 337
particular credit may be carried forward if authorized under the 338
section creating that credit. Nothing in this chapter shall be 339
construed to allow a taxpayer to claim, directly or indirectly, 340
a credit more than once for a taxable year. 341

Section 2. That existing sections 5747.08 and 5747.98 of 342
the Revised Code are hereby repealed. 343

Section 3. The amendment or enactment by this act of 344
sections 5747.08, 5747.79, and 5747.98 of the Revised Code 345
applies to taxable years ending on or after the effective date 346
of this act. 347