

As Introduced

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Representative Hughes

**Cosponsors: Representatives Latta, Hagan, R., Huffman, Miller,
McGregor, J., Collier, Ujvagi, Setzer, Sayre, Flowers, Uecker, Bacon, Seitz,
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A B I L L

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.72 of the Revised Code to allow a 2
nonrefundable credit against the personal income 3
tax for the installation of energy-efficient 4
devices in homes. 5

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

Section 1. That sections 5747.08 and 5747.98 be amended and 6
section 5747.72 of the Revised Code be enacted to read as 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 chapter, 12
unless the total credits allowed under divisions (E), (F), and (G) 13
of section 5747.05 of the Revised Code for the year are equal to 14
or exceed the tax imposed by section 5747.02 of the Revised Code, 15
in which case no return shall be required unless the taxpayer is 16
liable for a tax imposed pursuant to Chapter 5748. of the Revised 17

Code.	18
(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.	19 20 21 22
(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.	23 24 25 26 27 28
(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.	29 30
(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return	31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

in full payment of the tax due, as shown on the single return, for 50
such investors, other than investors who are persons subject to 51
the tax imposed under section 5733.06 of the Revised Code. 52

(b)(i) A pass-through entity shall not include in such a 53
single return any investor that is a trust to the extent that any 54
direct or indirect current, future, or contingent beneficiary of 55
the trust is a person subject to the tax imposed under section 56
5733.06 of the Revised Code. 57

(ii) A pass-through entity shall not include in such a single 58
return any investor that is itself a pass-through entity to the 59
extent that any direct or indirect investor in the second 60
pass-through entity is a person subject to the tax imposed under 61
section 5733.06 of the Revised Code. 62

(c) Nothing in division (D) of this section precludes the tax 63
commissioner from requiring such investors to file the return and 64
make the payment of taxes and related interest, penalty, and 65
interest penalty required by this section or section 5747.02, 66
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 67
of this section shall be construed to provide to such an investor 68
or pass-through entity any additional deduction or credit, other 69
than the credit provided by division (J) of this section, solely 70
on account of the entity's filing a return in accordance with this 71
section. Such a pass-through entity also shall make the filing and 72
payment of estimated taxes on behalf of the pass-through entity 73
investors other than an investor that is a person subject to the 74
tax imposed under section 5733.06 of the Revised Code. 75

(2) For the purposes of this section, "business credits" 76
means the credits listed in section 5747.98 of the Revised Code 77
excluding the following credits: 78

(a) The retirement credit under division (B) of section 79
5747.055 of the Revised Code; 80

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	81 82
(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	83 84
(d) The dependent care credit under section 5747.054 of the Revised Code;	85 86
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	87 88
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	89 90
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	91 92
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	93 94
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	95 96
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	97 98
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	99 100
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	101 102
(m) The low-income credit under section 5747.056 of the Revised Code;	103 104
<u>(n) The credit for purchasing and installing energy saving devices under section 5747.72 of the Revised Code.</u>	105 106
(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	107 108 109

provides otherwise, this election, once made, is binding and 110
irrevocable for the taxable year for which the election is made. 111
Nothing in this division shall be construed to provide for any 112
deduction or credit that would not be allowable if a nonresident 113
pass-through entity investor were to file an annual return. 114

(4) If a pass-through entity makes the election provided for 115
under division (D) of this section, the pass-through entity shall 116
be liable for any additional taxes, interest, interest penalty, or 117
penalties imposed by this chapter if the tax commissioner finds 118
that the single return does not reflect the correct tax due by the 119
pass-through entity investors covered by that return. Nothing in 120
this division shall be construed to limit or alter the liability, 121
if any, imposed on pass-through entity investors for unpaid or 122
underpaid taxes, interest, interest penalty, or penalties as a 123
result of the pass-through entity's making the election provided 124
for under division (D) of this section. For the purposes of 125
division (D) of this section, "correct tax due" means the tax that 126
would have been paid by the pass-through entity had the single 127
return been filed in a manner reflecting the tax commissioner's 128
findings. Nothing in division (D) of this section shall be 129
construed to make or hold a pass-through entity liable for tax 130
attributable to a pass-through entity investor's income from a 131
source other than the pass-through entity electing to file the 132
single return. 133

(E) If a husband and wife file a joint federal income tax 134
return for a taxable year, they shall file a joint return under 135
this section for that taxable year, and their liabilities are 136
joint and several, but, if the federal income tax liability of 137
either spouse is determined on a separate federal income tax 138
return, they shall file separate returns under this section. 139

If either spouse is not required to file a federal income tax 140
return and either or both are required to file a return pursuant 141

to this chapter, they may elect to file separate or joint returns, 142
and, pursuant to that election, their liabilities are separate or 143
joint and several. If a husband and wife file separate returns 144
pursuant to this chapter, each must claim the taxpayer's own 145
exemption, but not both, as authorized under section 5747.02 of 146
the Revised Code on the taxpayer's own return. 147

(F) Each return or notice required to be filed under this 148
section shall contain the signature of the taxpayer or the 149
taxpayer's duly authorized agent and of the person who prepared 150
the return for the taxpayer, and shall include the taxpayer's 151
social security number. Each return shall be verified by a 152
declaration under the penalties of perjury. The tax commissioner 153
shall prescribe the form that the signature and declaration shall 154
take. 155

(G) Each return or notice required to be filed under this 156
section shall be made and filed as required by section 5747.04 of 157
the Revised Code, on or before the fifteenth day of April of each 158
year, on forms that the tax commissioner shall prescribe, together 159
with remittance made payable to the treasurer of state in the 160
combined amount of the state and all school district income taxes 161
shown to be due on the form, unless the combined amount shown to 162
be due is one dollar or less, in which case that amount need not 163
be remitted. 164

Upon good cause shown, the tax commissioner may extend the 165
period for filing any notice or return required to be filed under 166
this section and may adopt rules relating to extensions. If the 167
extension results in an extension of time for the payment of any 168
state or school district income tax liability with respect to 169
which the return is filed, the taxpayer shall pay at the time the 170
tax liability is paid an amount of interest computed at the rate 171
per annum prescribed by section 5703.47 of the Revised Code on 172
that liability from the time that payment is due without extension 173

to the time of actual payment. Except as provided in section 174
5747.132 of the Revised Code, in addition to all other interest 175
charges and penalties, all taxes imposed under this chapter or 176
Chapter 5748. of the Revised Code and remaining unpaid after they 177
become due, except combined amounts due of one dollar or less, 178
bear interest at the rate per annum prescribed by section 5703.47 179
of the Revised Code until paid or until the day an assessment is 180
issued under section 5747.13 of the Revised Code, whichever occurs 181
first. 182

If the tax commissioner considers it necessary in order to 183
ensure the payment of the tax imposed by section 5747.02 of the 184
Revised Code or any tax imposed under Chapter 5748. of the Revised 185
Code, the tax commissioner may require returns and payments to be 186
made otherwise than as provided in this section. 187

To the extent that any provision in this division conflicts 188
with any provision in section 5747.026 of the Revised Code, the 189
provision in that section prevails. 190

(H) If any report, claim, statement, or other document 191
required to be filed, or any payment required to be made, within a 192
prescribed period or on or before a prescribed date under this 193
chapter is delivered after that period or that date by United 194
States mail to the agency, officer, or office with which the 195
report, claim, statement, or other document is required to be 196
filed, or to which the payment is required to be made, the date of 197
the postmark stamped on the cover in which the report, claim, 198
statement, or other document, or payment is mailed shall be deemed 199
to be the date of delivery or the date of payment. 200

If a payment is required to be made by electronic funds 201
transfer pursuant to section 5747.072 of the Revised Code, the 202
payment is considered to be made when the payment is received by 203
the treasurer of state or credited to an account designated by the 204
treasurer of state for the receipt of tax payments. 205

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a pass-through entity elects to file a single return and if any investor is required to file the return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purposes of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

Sec. 5747.72. (A) As used in this section, "energy saving device" means a residential washer, dryer, range, refrigerator, freezer, water heater, dishwasher, trash compactor, air conditioner, furnace, or other similar product used for regulating air or water temperature, cooking, sanitary purposes, or other household purposes, or a window or door on an outside wall of a home, if the device carries the energy star label indicating that

it meets the efficiency criteria of the energy star program 237
established by the United States department of energy and the 238
United States environmental protection agency. "Energy saving 239
device" does not include any television or other appliance used 240
primarily for entertainment. 241

(B) A nonrefundable credit against the tax imposed by section 242
5747.02 of the Revised Code may be claimed by a taxpayer who, 243
during the taxable year purchases and installs in the taxpayer's 244
home one or more new energy saving devices. The amount of the 245
credit shall be in accordance with the following table, but shall 246
not exceed the actual cost to the taxpayer of purchase and 247
installation: 248

<u>Cost of Purchase and</u>	<u>Maximum Amount of Credit</u>	
<u>Installation of Devices</u>		
<u>Under \$2,500</u>	<u>\$100</u>	251
<u>\$2,500-4,999.99</u>	<u>\$250</u>	252
<u>\$5,000-9,999.99</u>	<u>\$500</u>	253
<u>\$10,000 or more</u>	<u>\$1,000</u>	254

The credit may not be claimed on more than one tax return, 255
except that a husband and wife who file separate returns may elect 256
to claim separate credits that do not together exceed the maximum 257
allowable amount of the credit. The credit shall be claimed in the 258
order required under section 5747.98 of the Revised Code. The 259
credit for a taxable year shall not exceed the taxpayer's tax 260
liability for that year after allowing for any other credit that 261
precedes the credit under this section in that order. 262

Sec. 5747.98. (A) To provide a uniform procedure for 263
calculating the amount of tax due under section 5747.02 of the 264
Revised Code, a taxpayer shall claim any credits to which the 265
taxpayer is entitled in the following order: 266

(1) The retirement income credit under division (B) of 267

section 5747.055 of the Revised Code;	268
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	269 270
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	271 272
(4) The dependent care credit under section 5747.054 of the Revised Code;	273 274
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	275 276
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	277 278
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	279 280
(8) The low-income credit under section 5747.056 of the Revised Code;	281 282
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	283 284
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	285 286
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	287 288
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	289 290
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	291 292
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	293 294
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	295 296

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	297 298
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	299 300
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	301 302
(19) <u>The credit for purchasing and installing energy saving devices under section 5747.72 of the Revised Code;</u>	303 304
<u>(20)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	305 306
(20) <u>(21)</u> The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	307 308 309
(21) <u>(22)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	310 311 312
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	313 314
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	315 316
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	317 318
(25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	319 320
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	321 322
(27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	323 324
(28) <u>(29)</u> The export sales credit under section 5747.057 of	325

the Revised Code;	326
(29) <u>(30)</u> The credit for research and development and	327
technology transfer investors under section 5747.33 of the Revised	328
Code;	329
(30) <u>(31)</u> The enterprise zone credits under section 5709.65 of	330
the Revised Code;	331
(31) <u>(32)</u> The research and development credit under section	332
5747.331 of the Revised Code;	333
(32) <u>(33)</u> The refundable jobs creation credit under division	334
(A) of section 5747.058 of the Revised Code;	335
(33) <u>(34)</u> The refundable credit for taxes paid by a qualifying	336
entity granted under section 5747.059 of the Revised Code;	337
(34) <u>(35)</u> The refundable credits for taxes paid by a	338
qualifying pass-through entity granted under division (J) of	339
section 5747.08 of the Revised Code;	340
(35) <u>(36)</u> The refundable credit for tax withheld under	341
division (B)(1) of section 5747.062 of the Revised Code;	342
(36) <u>(37)</u> The refundable credit under section 5747.80 of the	343
Revised Code for losses on loans made to the Ohio venture capital	344
program under sections 150.01 to 150.10 of the Revised Code.	345
(B) For any credit, except the <u>refundable</u> credits enumerated	346
in divisions (A)(32) to (36) of this section and the credit	347
granted under division (I) of section 5747.08 of the Revised Code,	348
the amount of the credit for a taxable year shall not exceed the	349
tax due after allowing for any other credit that precedes it in	350
the order required under this section. Any excess amount of a	351
particular credit may be carried forward if authorized under the	352
section creating that credit. Nothing in this chapter shall be	353
construed to allow a taxpayer to claim, directly or indirectly, a	354
credit more than once for a taxable year.	355

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

Section 3. Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 2006.