

As Introduced

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Senator Kearney

Cosponsors: Senators Miller, D., Fedor, Goodman, Jones, Morano, Turner,
Schiavoni

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A B I L L

To amend section 5747.08 of the Revised Code to 1
permit individual taxpayers to direct the state to 2
transmit an income tax refund directly to the 3
taxpayer's savings or tax-qualified retirement 4
account. 5

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

Section 1. That section 5747.08 of the Revised Code be 6
amended 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 19
required of that individual under this chapter shall be made and 20
filed by that decedent's executor, administrator, or other person 21
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 shall 29
be made and filed by the fiduciary of the estate or trust. 30

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 31
of this section, any pass-through entity may file a single return 32
on behalf of one or more of the entity's investors other than an 33
investor that is a person subject to the tax imposed under section 34
5733.06 of the Revised Code. The single return shall set forth the 35
name, address, and social security number or other identifying 36
number of each of those pass-through entity investors and shall 37
indicate the distributive share of each of those pass-through 38
entity investor's income taxable in this state in accordance with 39
sections 5747.20 to 5747.231 of the Revised Code. Such 40
pass-through entity investors for whom the pass-through entity 41
elects to file a single return are not entitled to the exemption 42
or credit provided for by sections 5747.02 and 5747.022 of the 43
Revised Code; shall calculate the tax before business credits at 44
the highest rate of tax set forth in section 5747.02 of the 45
Revised Code for the taxable year for which the return is filed; 46
and are entitled to only their distributive share of the business 47
credits as defined in division (D)(2) of this section. A single 48
check drawn by the pass-through entity shall accompany the return 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 81

5747.05 of the Revised Code;	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
(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	105 106 107 108 109 110

deduction or credit that would not be allowable if a nonresident 111
pass-through entity investor were to file an annual return. 112

(4) If a pass-through entity makes the election provided for 113
under division (D) of this section, the pass-through entity shall 114
be liable for any additional taxes, interest, interest penalty, or 115
penalties imposed by this chapter if the tax commissioner finds 116
that the single return does not reflect the correct tax due by the 117
pass-through entity investors covered by that return. Nothing in 118
this division shall be construed to limit or alter the liability, 119
if any, imposed on pass-through entity investors for unpaid or 120
underpaid taxes, interest, interest penalty, or penalties as a 121
result of the pass-through entity's making the election provided 122
for under division (D) of this section. For the purposes of 123
division (D) of this section, "correct tax due" means the tax that 124
would have been paid by the pass-through entity had the single 125
return been filed in a manner reflecting the tax commissioner's 126
findings. Nothing in division (D) of this section shall be 127
construed to make or hold a pass-through entity liable for tax 128
attributable to a pass-through entity investor's income from a 129
source other than the pass-through entity electing to file the 130
single return. 131

(E) If a husband and wife file a joint federal income tax 132
return for a taxable year, they shall file a joint return under 133
this section for that taxable year, and their liabilities are 134
joint and several, but, if the federal income tax liability of 135
either spouse is determined on a separate federal income tax 136
return, they shall file separate returns under this section. 137

If either spouse is not required to file a federal income tax 138
return and either or both are required to file a return pursuant 139
to this chapter, they may elect to file separate or joint returns, 140
and, pursuant to that election, their liabilities are separate or 141
joint and several. If a husband and wife file separate returns 142

pursuant to this chapter, each must claim the taxpayer's own 143
exemption, but not both, as authorized under section 5747.02 of 144
the Revised Code on the taxpayer's own return. 145

(F) Each return or notice required to be filed under this 146
section shall contain the signature of the taxpayer or the 147
taxpayer's duly authorized agent and of the person who prepared 148
the return for the taxpayer, and shall include the taxpayer's 149
social security number. Each return shall be verified by a 150
declaration under the penalties of perjury. The tax commissioner 151
shall prescribe the form that the signature and declaration shall 152
take. 153

(G) Each return or notice required to be filed under this 154
section shall be made and filed as required by section 5747.04 of 155
the Revised Code, on or before the fifteenth day of April of each 156
year, on forms that the tax commissioner shall prescribe, together 157
with remittance made payable to the treasurer of state in the 158
combined amount of the state and all school district income taxes 159
shown to be due on the form, unless the combined amount shown to 160
be due is one dollar or less, in which case that amount need not 161
be remitted. 162

Upon good cause shown, the tax commissioner may extend the 163
period for filing any notice or return required to be filed under 164
this section and may adopt rules relating to extensions. If the 165
extension results in an extension of time for the payment of any 166
state or school district income tax liability with respect to 167
which the return is filed, the taxpayer shall pay at the time the 168
tax liability is paid an amount of interest computed at the rate 169
per annum prescribed by section 5703.47 of the Revised Code on 170
that liability from the time that payment is due without extension 171
to the time of actual payment. Except as provided in section 172
5747.132 of the Revised Code, in addition to all other interest 173
charges and penalties, all taxes imposed under this chapter or 174

Chapter 5748. of the Revised Code and remaining unpaid after they 175
become due, except combined amounts due of one dollar or less, 176
bear interest at the rate per annum prescribed by section 5703.47 177
of the Revised Code until paid or until the day an assessment is 178
issued under section 5747.13 of the Revised Code, whichever occurs 179
first. 180

If the tax commissioner considers it necessary in order to 181
ensure the payment of the tax imposed by section 5747.02 of the 182
Revised Code or any tax imposed under Chapter 5748. of the Revised 183
Code, the tax commissioner may require returns and payments to be 184
made otherwise than as provided in this section. 185

To the extent that any provision in this division conflicts 186
with any provision in section 5747.026 of the Revised Code, the 187
provision in that section prevails. 188

(H) If any report, claim, statement, or other document 189
required to be filed, or any payment required to be made, within a 190
prescribed period or on or before a prescribed date under this 191
chapter is delivered after that period or that date by United 192
States mail to the agency, officer, or office with which the 193
report, claim, statement, or other document is required to be 194
filed, or to which the payment is required to be made, the date of 195
the postmark stamped on the cover in which the report, claim, 196
statement, or other document, or payment is mailed shall be deemed 197
to be the date of delivery or the date of payment. 198

If a payment is required to be made by electronic funds 199
transfer pursuant to section 5747.072 of the Revised Code, the 200
payment is considered to be made when the payment is received by 201
the treasurer of state or credited to an account designated by the 202
treasurer of state for the receipt of tax payments. 203

"The date of the postmark" means, in the event there is more 204
than one date on the cover, the earliest date imprinted on the 205

cover by the United States postal service. 206

(I) The amounts withheld by the employer pursuant to section 207
5747.06 of the Revised Code shall be allowed to the recipient of 208
the compensation as credits against payment of the appropriate 209
taxes imposed on the recipient by section 5747.02 and under 210
Chapter 5748. of the Revised Code. 211

(J) If, in accordance with division (D) of this section, a 212
pass-through entity elects to file a single return and if any 213
investor is required to file the return and make the payment of 214
taxes required by this chapter on account of the investor's other 215
income that is not included in a single return filed by a 216
pass-through entity, the investor is entitled to a refundable 217
credit equal to the investor's proportionate share of the tax paid 218
by the pass-through entity on behalf of the investor. The investor 219
shall claim the credit for the investor's taxable year in which or 220
with which ends the taxable year of the pass-through entity. 221
Nothing in this chapter shall be construed to allow any credit 222
provided in this chapter to be claimed more than once. For the 223
purposes of computing any interest, penalty, or interest penalty, 224
the investor shall be deemed to have paid the refundable credit 225
provided by this division on the day that the pass-through entity 226
paid the estimated tax or the tax giving rise to the credit. 227

(K) The tax commissioner shall ensure that each return 228
required to be filed under this section includes a box that the 229
taxpayer may check to authorize a paid tax preparer who prepared 230
the return to communicate with the department of taxation about 231
matters pertaining to the return. The return or instructions 232
accompanying the return shall indicate that by checking the box 233
the taxpayer authorizes the department of taxation to contact the 234
preparer concerning questions that arise during the processing of 235
the return and authorizes the preparer only to provide the 236
department with information that is missing from the return, to 237

contact the department for information about the processing of the 238
return or the status of the taxpayer's refund or payments, and to 239
respond to notices about mathematical errors, offsets, or return 240
preparation that the taxpayer has received from the department and 241
has shown to the preparer. 242

(L) The tax commissioner shall permit individual taxpayers, 243
when the taxpayer files the annual return required by this 244
section, to instruct the department of taxation to cause any 245
refund of overpaid taxes to be deposited directly into a savings 246
account, a cash or deferred arrangement account described in 247
subsection 401(k) of the Internal Revenue Code, an individual 248
retirement account or individual retirement annuity, or, in the 249
case of a taxpayer who is self-employed for the purposes of 250
subsection 401(c) of the Internal Revenue Code, a trust that is a 251
qualified plan under section 401 of the Internal Revenue Code 252
("Keogh" plan), as designated by the taxpayer, regardless of 253
whether the taxpayer files a paper return or transmits the return 254
electronically or telephonically. 255

Section 2. That existing section 5747.08 of the Revised Code 256
is hereby repealed. 257