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Senator Kearney

Cosponsors: Senators Miller, D., Fedor, Goodman, Jones, Morano, Turner,
Schiavoni, Sawyer, Buehrer, Cafaro, Carey, Coughlin, Gibbs, Gillmor,
Grendell, Harris, Hughes, Strahorn, Wagoner, Wilson, Patton, Seitz

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A B I L L

To amend section 5747.08 of the Revised Code to
permit individual taxpayers to direct the state to
transmit an income tax refund directly to the
taxpayer's checking, savings, or individual
retirement account if the taxpayer files a return
electronically.

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

Section 1. That section 5747.08 of the Revised Code be
amended to read as follows:

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Sec. 5747.08. An annual return with respect to the tax
imposed by section 5747.02 of the Revised Code and each tax
imposed under Chapter 5748. of the Revised Code shall be made by
every taxpayer for any taxable year for which the taxpayer is
liable for the tax imposed by that section or under that chapter,
unless the total credits allowed under divisions (E), (F), and (G)
of section 5747.05 of the Revised Code for the year are equal to
or exceed the tax imposed by section 5747.02 of the Revised Code,
in which case no return shall be required unless the taxpayer is

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liable for a tax imposed pursuant to Chapter 5748. of the Revised Code. 18
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(A) If an individual is deceased, any return or notice 20
required of that individual under this chapter shall be made and 21
filed by that decedent's executor, administrator, or other person 22
charged with the property of that decedent. 23

(B) If an individual is unable to make a return or notice 24
required by this chapter, the return or notice required of that 25
individual shall be made and filed by the individual's duly 26
authorized agent, guardian, conservator, fiduciary, or other 27
person charged with the care of the person or property of that 28
individual. 29

(C) Returns or notices required of an estate or a trust shall 30
be made and filed by the fiduciary of the estate or trust. 31

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 32
of this section, any pass-through entity may file a single return 33
on behalf of one or more of the entity's investors other than an 34
investor that is a person subject to the tax imposed under section 35
5733.06 of the Revised Code. The single return shall set forth the 36
name, address, and social security number or other identifying 37
number of each of those pass-through entity investors and shall 38
indicate the distributive share of each of those pass-through 39
entity investor's income taxable in this state in accordance with 40
sections 5747.20 to 5747.231 of the Revised Code. Such 41
pass-through entity investors for whom the pass-through entity 42
elects to file a single return are not entitled to the exemption 43
or credit provided for by sections 5747.02 and 5747.022 of the 44
Revised Code; shall calculate the tax before business credits at 45
the highest rate of tax set forth in section 5747.02 of the 46
Revised Code for the taxable year for which the return is filed; 47
and are entitled to only their distributive share of the business 48
credits as defined in division (D)(2) of this section. A single 49

check drawn by the pass-through entity shall accompany the return 50
in full payment of the tax due, as shown on the single return, for 51
such investors, other than investors who are persons subject to 52
the 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 any 55
direct or indirect current, future, or contingent beneficiary of 56
the trust is a person subject to the tax imposed under section 57
5733.06 of the Revised Code. 58

(ii) A pass-through entity shall not include in such a single 59
return any investor that is itself a pass-through entity to the 60
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 tax 64
commissioner from requiring such investors to file the return and 65
make the payment of taxes and related interest, penalty, and 66
interest penalty required by this section or section 5747.02, 67
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 68
of this section shall be construed to provide to such an investor 69
or pass-through entity any additional deduction or credit, other 70
than the credit provided by division (J) of this section, solely 71
on account of the entity's filing a return in accordance with this 72
section. Such a pass-through entity also shall make the filing and 73
payment of estimated taxes on behalf of the pass-through entity 74
investors other than an investor that is a person subject to the 75
tax imposed under section 5733.06 of the Revised Code. 76

(2) For the purposes of this section, "business credits" 77
means the credits listed in section 5747.98 of the Revised Code 78
excluding the following credits: 79

(a) The retirement credit under division (B) of section 80

5747.055 of the Revised Code;	81
(b) The senior citizen credit under division (C) of section	82
5747.05 of the Revised Code;	83
(c) The lump sum distribution credit under division (D) of	84
section 5747.05 of the Revised Code;	85
(d) The dependent care credit under section 5747.054 of the	86
Revised Code;	87
(e) The lump sum retirement income credit under division (C)	88
of section 5747.055 of the Revised Code;	89
(f) The lump sum retirement income credit under division (D)	90
of section 5747.055 of the Revised Code;	91
(g) The lump sum retirement income credit under division (E)	92
of section 5747.055 of the Revised Code;	93
(h) The credit for displaced workers who pay for job training	94
under section 5747.27 of the Revised Code;	95
(i) The twenty-dollar personal exemption credit under section	96
5747.022 of the Revised Code;	97
(j) The joint filing credit under division (G) of section	98
5747.05 of the Revised Code;	99
(k) The nonresident credit under division (A) of section	100
5747.05 of the Revised Code;	101
(l) The credit for a resident's out-of-state income under	102
division (B) of section 5747.05 of the Revised Code;	103
(m) The low-income credit under section 5747.056 of the	104
Revised Code.	105
(3) The election provided for under division (D) of this	106
section applies only to the taxable year for which the election is	107
made by the pass-through entity. Unless the tax commissioner	108
provides otherwise, this election, once made, is binding and	109

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

(4) If a pass-through entity makes the election provided for 114
under division (D) of this section, the pass-through entity shall 115
be liable for any additional taxes, interest, interest penalty, or 116
penalties imposed by this chapter if the tax commissioner finds 117
that the single return does not reflect the correct tax due by the 118
pass-through entity investors covered by that return. Nothing in 119
this division shall be construed to limit or alter the liability, 120
if any, imposed on pass-through entity investors for unpaid or 121
underpaid taxes, interest, interest penalty, or penalties as a 122
result of the pass-through entity's making the election provided 123
for under division (D) of this section. For the purposes of 124
division (D) of this section, "correct tax due" means the tax that 125
would have been paid by the pass-through entity had the single 126
return been filed in a manner reflecting the tax commissioner's 127
findings. Nothing in division (D) of this section shall be 128
construed to make or hold a pass-through entity liable for tax 129
attributable to a pass-through entity investor's income from a 130
source other than the pass-through entity electing to file the 131
single return. 132

(E) If a husband and wife file a joint federal income tax 133
return for a taxable year, they shall file a joint return under 134
this section for that taxable year, and their liabilities are 135
joint and several, but, if the federal income tax liability of 136
either spouse is determined on a separate federal income tax 137
return, they shall file separate returns under this section. 138

If either spouse is not required to file a federal income tax 139
return and either or both are required to file a return pursuant 140
to this chapter, they may elect to file separate or joint returns, 141

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

(F) Each return or notice required to be filed under this 147
section shall contain the signature of the taxpayer or the 148
taxpayer's duly authorized agent and of the person who prepared 149
the return for the taxpayer, and shall include the taxpayer's 150
social security number. Each return shall be verified by a 151
declaration under the penalties of perjury. The tax commissioner 152
shall prescribe the form that the signature and declaration shall 153
take. 154

(G) Each return or notice required to be filed under this 155
section shall be made and filed as required by section 5747.04 of 156
the Revised Code, on or before the fifteenth day of April of each 157
year, on forms that the tax commissioner shall prescribe, together 158
with remittance made payable to the treasurer of state in the 159
combined amount of the state and all school district income taxes 160
shown to be due on the form, unless the combined amount shown to 161
be due is one dollar or less, in which case that amount need not 162
be remitted. 163

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

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

If the tax commissioner considers it necessary in order to 182
ensure the payment of the tax imposed by section 5747.02 of the 183
Revised Code or any tax imposed under Chapter 5748. of the Revised 184
Code, the tax commissioner may require returns and payments to be 185
made otherwise than as provided in this section. 186

To the extent that any provision in this division conflicts 187
with any provision in section 5747.026 of the Revised Code, the 188
provision in that section prevails. 189

(H) If any report, claim, statement, or other document 190
required to be filed, or any payment required to be made, within a 191
prescribed period or on or before a prescribed date under this 192
chapter is delivered after that period or that date by United 193
States mail to the agency, officer, or office with which the 194
report, claim, statement, or other document is required to be 195
filed, or to which the payment is required to be made, the date of 196
the postmark stamped on the cover in which the report, claim, 197
statement, or other document, or payment is mailed shall be deemed 198
to be the date of delivery or the date of payment. 199

If a payment is required to be made by electronic funds 200
transfer pursuant to section 5747.072 of the Revised Code, the 201
payment is considered to be made when the payment is received by 202
the treasurer of state or credited to an account designated by the 203
treasurer of state for the receipt of tax payments. 204

"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.

(K) The tax commissioner shall ensure that each return
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 237
department with information that is missing from the return, to 238
contact the department for information about the processing of the 239
return or the status of the taxpayer's refund or payments, and to 240
respond to notices about mathematical errors, offsets, or return 241
preparation that the taxpayer has received from the department and 242
has shown to the preparer. 243

(L) The tax commissioner shall permit individual taxpayers to 244
instruct the department of taxation to cause any refund of 245
overpaid taxes to be deposited directly into a checking account, 246
savings account, or an individual retirement account or individual 247
retirement annuity, as designated by the taxpayer, when the 248
taxpayer files the annual return required by this section 249
electronically. 250

(M) The tax commissioner may adopt rules to administer this 251
section. 252

Section 2. That existing section 5747.08 of the Revised Code 253
is hereby repealed. 254