

**As Reported by the Senate Finance and Financial Institutions  
Committee**

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**Sub. S. B. No. 194**

**Senator Kearney**

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

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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 account or individual	4
retirement account.	5

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

<b>Section 1.</b> That section 5747.08 of the Revised Code be	6
amended to read as follows:	7

<b>Sec. 5747.08.</b> 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 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
(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.	105 106 107 108 109

Nothing in this division shall be construed to provide for any 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 or an individual retirement account or individual 247  
retirement annuity, as designated by the taxpayer, regardless of 248  
whether the taxpayer files a paper return or transmits the return 249  
electronically or telephonically. 250

**Section 2.** That existing section 5747.08 of the Revised Code 251  
is hereby repealed. 252