

As Introduced

**129th General Assembly
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H. B. No. 17

Representative Baker

**Cosponsors: Representatives Adams, R., Beck, Blessing, Boose, Combs,
Derickson, Dovilla, Hayes, Henne, Huffman, Kozlowski, Ruhl, Uecker**

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A B I L L

To amend sections 5747.07 and 5747.15 and to enact 1
section 5747.073 of the Revised Code to authorize 2
a \$2,400 income tax withholding credit for an 3
employer that hires and employs a previously 4
unemployed individual. 5

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

Section 1. That sections 5747.07 and 5747.15 be amended and 6
section 5747.073 of the Revised Code be enacted to read as 7
follows: 8

Sec. 5747.07. (A) As used in this section: 9

(1) "Partial weekly withholding period" means a period during 10
which an employer directly, indirectly, or constructively pays 11
compensation to, or credits compensation to the benefit of, an 12
employee, and that consists of a consecutive Saturday, Sunday, 13
Monday, and Tuesday or a consecutive Wednesday, Thursday, and 14
Friday. There are two partial weekly withholding periods each 15
week, except that a partial weekly withholding period cannot 16
extend from one calendar year into the next calendar year; if the 17
first day of January falls on a day other than Saturday or 18

Wednesday, the partial weekly withholding period ends on the 19
thirty-first day of December and there are three partial weekly 20
withholding periods during that week. 21

(2) "Undeposited taxes" means the taxes an employer is 22
required to deduct and withhold from an employee's compensation 23
pursuant to section 5747.06 of the Revised Code that have not been 24
remitted to the tax commissioner pursuant to this section or to 25
the treasurer of state pursuant to section 5747.072 of the Revised 26
Code. 27

(3) A "week" begins on Saturday and concludes at the end of 28
the following Friday. 29

(B) Except as provided in divisions (C) and (D) of this 30
section ~~and in~~ division (A) of section 5747.072 of the Revised 31
Code, and section 5747.073 of the Revised Code, every employer 32
required to deduct and withhold any amount under section 5747.06 33
of the Revised Code shall file a return and shall pay the amount 34
required by law as follows: 35

(1) An employer who accumulates or is required to accumulate 36
undeposited taxes of one hundred thousand dollars or more during a 37
partial weekly withholding period shall make the payment of the 38
undeposited taxes by the close of the first banking day after the 39
day on which the accumulation reaches one hundred thousand 40
dollars. If required under division (I) of this section, the 41
payment shall be made by electronic funds transfer under section 42
5747.072 of the Revised Code. 43

(2)(a) Except as required by division (B)(1) of this section, 44
an employer described in division (B)(2)(b) of this section shall 45
make the payment of undeposited taxes within three banking days 46
after the close of a partial weekly withholding period during 47
which the employer was required to deduct and withhold any amount 48
under this chapter. If required under division (I) of this 49

section, the payment shall be made by electronic funds transfer 50
under section 5747.072 of the Revised Code. 51

(b) For amounts required to be deducted and withheld during 52
1994, an employer described in division (B)(2)(b) of this section 53
is one whose actual or required payments under this section 54
exceeded one hundred eighty thousand dollars during the 55
twelve-month period ending June 30, 1993. For amounts required to 56
be deducted and withheld during 1995 and each year thereafter, an 57
employer described in division (B)(2)(b) of this section is one 58
whose actual or required payments under this section were at least 59
eighty-four thousand dollars during the twelve-month period ending 60
on the thirtieth day of June of the preceding calendar year. 61

(3) Except as required by divisions (B)(1) and (2) of this 62
section, if an employer's actual or required payments were more 63
than two thousand dollars during the twelve-month period ending on 64
the thirtieth day of June of the preceding calendar year, the 65
employer shall make the payment of undeposited taxes for each 66
month during which they were required to be withheld no later than 67
fifteen days following the last day of that month. The employer 68
shall file the return prescribed by the tax commissioner with the 69
payment. 70

(4) Except as required by divisions (B)(1), (2), and (3) of 71
this section, an employer shall make the payment of undeposited 72
taxes for each calendar quarter during which they were required to 73
be withheld no later than the last day of the month following the 74
last day of March, June, September, and December each year. The 75
employer shall file the return prescribed by the tax commissioner 76
with the payment. 77

(C) The return and payment schedules prescribed by divisions 78
(B)(1) and (2) of this section do not apply to the return and 79
payment of undeposited school district income taxes arising from 80
taxes levied pursuant to Chapter 5748. of the Revised Code. 81

Undeposited school district income taxes shall be returned and 82
paid pursuant to divisions (B)(3) and (4) of this section, as 83
applicable. 84

(D)(1) The requirements of division (B) of this section are 85
met if the amount paid is not less than ninety-five per cent of 86
the actual tax withheld or required to be withheld for the prior 87
quarterly, monthly, or partial weekly withholding period, and the 88
underpayment is not due to willful neglect. Any underpayment of 89
withheld tax shall be paid within thirty days of the date on which 90
the withheld tax was due without regard to division (D)(1) of this 91
section. An employer described in division (B)(1) or (2) of this 92
section shall make the payment by electronic funds transfer under 93
section 5747.072 of the Revised Code. 94

(2) If the tax commissioner believes that quarterly or 95
monthly payments would result in a delay that might jeopardize the 96
remittance of withholding payments, the commissioner may order 97
that the payments be made weekly, or more frequently if necessary, 98
and the payments shall be made no later than three banking days 99
following the close of the period for which the jeopardy order is 100
made. An order requiring weekly or more frequent payments shall be 101
delivered to the employer personally or by certified mail and 102
remains in effect until the commissioner notifies the employer to 103
the contrary. 104

(3) If compelling circumstances exist concerning the 105
remittance of undeposited taxes, the commissioner may order the 106
employer to make payments under any of the payment schedules under 107
division (B) of this section. The order shall be delivered to the 108
employer personally or by certified mail and shall remain in 109
effect until the commissioner notifies the employer to the 110
contrary. For purposes of division (D)(3) of this section, 111
"compelling circumstances" exist if either or both of the 112
following are true: 113

(a) Based upon annualization of payments made or required to 114
be made during the preceding calendar year and during the current 115
calendar year, the employer would be required for the next 116
calendar year to make payments under division (B)(2) of this 117
section. 118

(b) Based upon annualization of payments made or required to 119
be made during the current calendar year, the employer would be 120
required for the next calendar year to make payments under 121
division (B)(2) of this section. 122

(E)(1) An employer described in division (B)(1) or (2) of 123
this section shall file, not later than the last day of the month 124
following the end of each calendar quarter, a return covering, but 125
not limited to, both the actual amount deducted and withheld and 126
the amount required to be deducted and withheld for the tax 127
imposed under section 5747.02 of the Revised Code during each 128
partial weekly withholding period or portion of a partial weekly 129
withholding period during that quarter. The employer shall file 130
the quarterly return even if the aggregate amount required to be 131
deducted and withheld for the quarter is zero dollars. At the time 132
of filing the return, the employer shall pay any amounts of 133
undeposited taxes for the quarter, whether actually deducted and 134
withheld or required to be deducted and withheld, that have not 135
been previously paid. If required under division (I) of this 136
section, the payment shall be made by electronic funds transfer. 137
The tax commissioner shall prescribe the form and other 138
requirements of the quarterly return. 139

(2) In addition to other returns required to be filed and 140
payments required to be made under this section, every employer 141
required to deduct and withhold taxes shall file, not later than 142
the thirty-first day of January of each year, an annual return 143
covering, but not limited to, both the aggregate amount deducted 144
and withheld and the aggregate amount required to be deducted and 145

withheld during the entire preceding year for the tax imposed 146
under section 5747.02 of the Revised Code and for each tax imposed 147
under Chapter 5748. of the Revised Code. At the time of filing 148
that return, the employer shall pay over any amounts of 149
undeposited taxes for the preceding year, whether actually 150
deducted and withheld or required to be deducted and withheld, 151
that have not been previously paid. The employer shall make the 152
annual report, to each employee and to the tax commissioner, of 153
the compensation paid and each tax withheld, as the commissioner 154
by rule may prescribe. 155

Each employer required to deduct and withhold any tax is 156
liable for the payment of that amount required to be deducted and 157
withheld, whether or not the tax has in fact been withheld, unless 158
the failure to withhold was based upon the employer's good faith 159
in reliance upon the statement of the employee as to liability, 160
and the amount shall be deemed to be a special fund in trust for 161
the general revenue fund. 162

(F) Each employer shall file with the employer's annual 163
return the following items of information on employees for whom 164
withholding is required under section 5747.06 of the Revised Code: 165

(1) The full name of each employee, the employee's address, 166
the employee's school district of residence, and in the case of a 167
nonresident employee, the employee's principal county of 168
employment; 169

(2) The social security number of each employee; 170

(3) The total amount of compensation paid before any 171
deductions to each employee for the period for which the annual 172
return is made; 173

(4) The amount of the tax imposed by section 5747.02 of the 174
Revised Code and the amount of each tax imposed under Chapter 175
5748. of the Revised Code withheld from the compensation of the 176

employee for the period for which the annual return is made. The 177
commissioner may extend upon good cause the period for filing any 178
notice or return required to be filed under this section and may 179
adopt rules relating to extensions of time. If the extension 180
results in an extension of time for the payment of the amounts 181
withheld with respect to which the return is filed, the employer 182
shall pay, at the time the amount withheld is paid, an amount of 183
interest computed at the rate per annum prescribed by section 184
5703.47 of the Revised Code on that amount withheld, from the day 185
that amount was originally required to be paid to the day of 186
actual payment or to the day an assessment is issued under section 187
5747.13 of the Revised Code, whichever occurs first. 188

(5) The full name and social security number of any employee 189
who satisfied the conditions set forth in section 5747.073 of the 190
Revised Code during the reporting year or the year immediately 191
preceding the reporting year and for whom the employer claimed a 192
credit under that section. The employer shall state the date the 193
employee satisfied the conditions and the amount of any credit 194
carried forward from the preceding reporting year. 195

(6) In addition to all other interest charges and penalties 196
imposed, all amounts of taxes withheld or required to be withheld 197
and remaining unpaid after the day the amounts are required to be 198
paid shall bear interest from the date prescribed for payment at 199
the rate per annum prescribed by section 5703.47 of the Revised 200
Code on the amount unpaid, in addition to the amount withheld, 201
until paid or until the day an assessment is issued under section 202
5747.13 of the Revised Code, whichever occurs first. 203

(G) An employee of a corporation, limited liability company, 204
or business trust having control or supervision of or charged with 205
the responsibility of filing the report and making payment, or an 206
officer, member, manager, or trustee of a corporation, limited 207
liability company, or business trust who is responsible for the 208

execution of the corporation's, limited liability company's, or 209
business trust's fiscal responsibilities, shall be personally 210
liable for failure to file the report or pay the tax due as 211
required by this section. The dissolution, termination, or 212
bankruptcy of a corporation, limited liability company, or 213
business trust does not discharge a responsible officer's, 214
member's, manager's, employee's, or trustee's liability for a 215
failure of the corporation, limited liability company, or business 216
trust to file returns or pay tax due. 217

(H) If an employer required to deduct and withhold income tax 218
from compensation and to pay that tax to the state under sections 219
5747.06 and 5747.07 of the Revised Code sells the employer's 220
business or stock of merchandise or quits the employer's business, 221
the taxes required to be deducted and withheld and paid to the 222
state pursuant to those sections prior to that time, together with 223
any interest and penalties imposed on those taxes, become due and 224
payable immediately, and that person shall make a final return 225
within fifteen days after the date of selling or quitting 226
business. The employer's successor shall withhold a sufficient 227
amount of the purchase money to cover the amount of the taxes, 228
interest, and penalties due and unpaid, until the former owner 229
produces a receipt from the tax commissioner showing that the 230
taxes, interest, and penalties have been paid or a certificate 231
indicating that no such taxes are due. If the purchaser of the 232
business or stock of merchandise fails to withhold purchase money, 233
the purchaser shall be personally liable for the payment of the 234
taxes, interest, and penalties accrued and unpaid during the 235
operation of the business by the former owner. If the amount of 236
taxes, interest, and penalties outstanding at the time of the 237
purchase exceeds the total purchase money, the tax commissioner in 238
the commissioner's discretion may adjust the liability of the 239
seller or the responsibility of the purchaser to pay that 240
liability to maximize the collection of withholding tax revenue. 241

(I)(1) An employer described in division (I)(2) of this section shall make all payments required by this section for the year by electronic funds transfer under section 5747.072 of the Revised Code.

(2)(a) For 1994, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1993.

(b) For 1995, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1994.

(c) For 1996, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded three hundred thousand dollars during the twelve-month period ending June 30, 1995.

(d) For 1997 through 2000, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded one hundred eighty thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year.

(e) For 2001 and thereafter, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded eighty-four thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year.

Sec. 5747.073. An employer required to deduct and withhold income tax from an employee's compensation under section 5747.06 of the Revised Code and remit such amounts under section 5747.07 of the Revised Code is entitled to a credit against the amount

required to be remitted if the employer employs an employee 272
meeting each of the following conditions: 273

(A) The employee was unemployed for the four consecutive 274
weeks immediately preceding the date of hire. 275

(B) The employee was hired on or after January 1, 2011, but 276
before January 1, 2012. 277

(C) During employment the employee was lawfully employable in 278
the United States under federal law, as affirmed under this 279
section, and resided in this state. 280

(D) The employee has been employed by the taxpayer for 281
twenty-four consecutive months for compensation greater than or 282
equal to the average monthly employment compensation benefits paid 283
to persons receiving unemployment compensation pursuant to Chapter 284
4141. of the Revised Code. 285

The credit equals two thousand four hundred dollars for each 286
such employee. The credit shall be deducted from the remittance of 287
undeposited taxes due for the partial weekly withholding period 288
that includes the last day of the employee's twenty-fourth month 289
of employment. Excess credit may be deducted from remittances of 290
undeposited taxes for subsequent partial weekly withholding 291
periods until fully utilized. 292

The credit under this section shall not be allowed for a 293
taxpayer unless the taxpayer executes a notarized statement 294
affirming that the taxpayer used the federal government's 295
electronic employment verification system, currently known as 296
"E-verify," or a successor system to verify the lawful employment 297
eligibility of each employee on the basis of whom the credit is 298
claimed. The taxpayer shall make the statement available for 299
inspection by the tax commissioner upon the commissioner's 300
request. 301

Sec. 5747.15. (A) In addition to any other penalty imposed by 302
this chapter or Chapter 5703. of the Revised Code, the following 303
penalties shall apply: 304

(1) If a taxpayer, qualifying entity, or employer required to 305
file any report or return, including an informational notice, 306
report, or return, under this chapter fails to make and file the 307
report or return within the time prescribed, including any 308
extensions of time granted by the tax commissioner, a penalty may 309
be imposed not exceeding the greater of fifty dollars per month or 310
fraction of a month, not to exceed five hundred dollars, or five 311
per cent per month or fraction of a month, not to exceed fifty per 312
cent, of the sum of the taxes required to be shown on the report 313
or return, for each month or fraction of a month elapsing between 314
the due date, including extensions of the due date, and the date 315
on which filed. 316

(2) If a taxpayer fails to pay any amount of tax required to 317
be paid under section 5733.41 or Chapters 5747. or 5748. of the 318
Revised Code, except estimated tax under section 5747.09 or 319
5747.43 of the Revised Code, by the dates prescribed for payment, 320
a penalty may be imposed not exceeding twice the applicable 321
interest charged under division (G) of section 5747.08 of the 322
Revised Code for the delinquent payment. 323

(3)(a) If an employer fails to pay any amount of tax imposed 324
by section 5747.02 of the Revised Code and required to be paid 325
under this chapter by the dates prescribed for payment, a penalty 326
may be imposed not exceeding the sum of ten per cent of the 327
delinquent payment plus twice the interest charged under division 328
(F)~~(5)~~(6) of section 5747.07 of the Revised Code for the 329
delinquent payment. 330

(b) If a qualifying entity fails to pay any amount of tax 331
imposed by section 5733.41 or 5747.41 of the Revised Code and 332

required to be paid under this chapter by the dates prescribed for 333
payment, a penalty may be imposed not exceeding the sum of ten per 334
cent of the delinquent payment plus twice the applicable interest 335
charged under division (G) of section 5747.08 of the Revised Code 336
for the delinquent payment. 337

(4)(a) If an employer withholds from employees the tax 338
imposed by section 5747.02 of the Revised Code and fails to remit 339
the tax withheld to the state as required by this chapter on or 340
before the dates prescribed for payment, a penalty may be imposed 341
not exceeding fifty per cent of the delinquent payment. 342

(b) If a qualifying entity withholds any amount of tax 343
imposed under section 5747.41 of the Revised Code from an 344
individual's qualifying amount and fails to remit that amount to 345
the state as required by sections 5747.42 to 5747.453 of the 346
Revised Code on or before the dates prescribed for payment, a 347
penalty may be imposed not exceeding fifty per cent of the 348
delinquent payment. 349

(5) If a taxpayer, qualifying entity, or employer files what 350
purports to be a return required by this chapter that does not 351
contain information upon which the substantial correctness of the 352
return may be judged or contains information that on its face 353
indicates that the return is substantially incorrect, and the 354
filing of the return in that manner is due to a position that is 355
frivolous or a desire that is apparent from the return to delay or 356
impede the administration of the tax levied by section 5733.41, 357
5747.02, or 5747.41, or Chapter 5748. of the Revised Code, a 358
penalty of up to five hundred dollars may be imposed. 359

(6) If a taxpayer or qualifying entity makes a fraudulent 360
attempt to evade the reporting or payment of the tax required to 361
be shown on any return required under this chapter, a penalty may 362
be imposed not exceeding the greater of one thousand dollars or 363
one hundred per cent of the tax required to be shown on the 364

return. 365

(7) If any person makes a false or fraudulent claim for a 366
refund under this chapter, a penalty may be imposed not exceeding 367
the greater of one thousand dollars or one hundred per cent of the 368
claim. The penalty imposed under division (A)(7) of this section, 369
any refund issued on the claim, and interest on any refund from 370
the date of the refund, may be assessed under section 5747.13 of 371
the Revised Code as tax, penalty, or interest imposed under 372
section 5733.41, 5747.02, or 5747.41 of the Revised Code, without 373
regard to whether the person making the claim is otherwise subject 374
to the provisions of this chapter or Chapter 5733. of the Revised 375
Code, and without regard to any time limitation for the assessment 376
imposed by division (A) of section 5747.13 of the Revised Code. 377

(B) For purposes of this section, the taxes required to be 378
shown on the return shall be reduced by the amount of any part of 379
the taxes paid on or before the date, including any extensions of 380
the date, prescribed for filing the return. 381

(C) Any penalty imposed under this section shall be in 382
addition to all other penalties imposed under this section. All or 383
part of any penalty imposed under this section may be abated by 384
the commissioner. All or part of any penalty imposed under this 385
section may be abated by the commissioner if the taxpayer, 386
qualifying entity, or employer shows that the failure to comply 387
with the provisions of this chapter is due to reasonable cause and 388
not willful neglect. 389

Section 2. That existing sections 5747.07 and 5747.15 of the 390
Revised Code are hereby repealed. 391