

As Introduced

**129th General Assembly
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S. B. No. 365

Senator Kearney

Cosponsors: Senators Turner, Sawyer, Tavares

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A B I L L

To amend sections 126.35 and 5747.11 and to enact 1
section 5747.114 of the Revised Code to require 2
the Department of Taxation to provide taxpayers 3
the option of receiving their income tax refund in 4
the form of a prepaid debit card. 5

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

Section 1. That sections 126.35 and 5747.11 be amended and 6
section 5747.114 of the Revised Code be enacted to read as 7
follows: 8

Sec. 126.35. (A) The director of budget and management shall 9
draw warrants against the treasurer of state pursuant to all 10
requests for payment that the director has approved under section 11
126.07 of the Revised Code. 12

(B) Unless a cash assistance payment is to be made by 13
electronic benefit transfer, payment by the director of budget and 14
management to a participant in the Ohio works first program 15
pursuant to Chapter 5107. of the Revised Code, a recipient of 16
disability financial assistance pursuant to Chapter 5115. of the 17
Revised Code, or a recipient of cash assistance provided under the 18
refugee assistance program established under section 5101.49 of 19

the Revised Code shall be made by direct deposit to the account of 20
the participant or recipient in the financial institution 21
designated under section 329.03 of the Revised Code. Payment by 22
the director of budget and management to a recipient of benefits 23
distributed through the medium of electronic benefit transfer 24
pursuant to section 5101.33 of the Revised Code shall be by 25
electronic benefit transfer. Payment by the director of budget and 26
management as compensation to an employee of the state who has, 27
pursuant to section 124.151 of the Revised Code, designated a 28
financial institution and account for the direct deposit of such 29
payments shall be made by direct deposit to the account of the 30
employee. Payment to any other payee who has designated a 31
financial institution and account for the direct deposit of such 32
payment may be made by direct deposit to the account of the payee 33
in the financial institution as provided in section 9.37 of the 34
Revised Code. Accounts maintained by the director of budget and 35
management or the director's agent in a financial institution for 36
the purpose of effectuating payment by direct deposit or 37
electronic benefit transfer shall be maintained in accordance with 38
section 135.18 of the Revised Code. 39

(C) ~~All~~ Except as provided in section 5747.114 of the Revised 40
Code, all other payments from the state treasury shall be made by 41
paper warrants or by direct deposit payable to the respective 42
payees. The director of budget and management may mail the paper 43
warrants to the respective payees or distribute them through other 44
state agencies, whichever the director determines to be the better 45
procedure. 46

(D) If the average per transaction cost the director of 47
budget and management incurs in making direct deposits for a state 48
agency exceeds the average per transaction cost the director 49
incurs in drawing paper warrants for all public offices during the 50
same period of time, the director may certify the difference in 51

cost and the number of direct deposits for the agency to the 52
director of administrative services. The director of 53
administrative services shall reimburse the director of budget and 54
management for such additional costs and add the amount to the 55
processing charge assessed upon the state agency. 56

Sec. 5747.11. (A) The tax commissioner shall refund to 57
employers, qualifying entities, or taxpayers, with respect to any 58
tax imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 59
5748. of the Revised Code: 60

(1) Overpayments of more than one dollar; 61

(2) Amounts in excess of one dollar paid illegally or 62
erroneously; 63

(3) Amounts in excess of one dollar paid on an illegal, 64
erroneous, or excessive assessment. 65

(B) Except as otherwise provided under divisions (D) and (E) 66
of this section, applications for refund shall be filed with the 67
tax commissioner, on the form prescribed by the commissioner, 68
within four years from the date of the illegal, erroneous, or 69
excessive payment of the tax, or within any additional period 70
allowed by division (B)(3)(b) of section 5747.05, division (B) of 71
section 5747.10, division (A) of section 5747.13, or division (C) 72
of section 5747.45 of the Revised Code. 73

On filing of the refund application, the commissioner shall 74
determine the amount of refund due and certify such amount to the 75
director of budget and management and treasurer of state for 76
payment from the tax refund fund created by section 5703.052 of 77
the Revised Code. Payment shall be made as provided in section 78
5747.114 or division (C) of section 126.35 of the Revised Code. 79

(C)(1) Interest shall be allowed and paid upon any illegal or 80
erroneous assessment in excess of one dollar in respect of the tax 81

imposed under section 5747.02 or Chapter 5748. of the Revised Code 82
at the rate per annum prescribed by section 5703.47 of the Revised 83
Code from the date of the payment of the illegal or erroneous 84
assessment until the date the refund of such amount is paid. If 85
such refund results from the filing of a return or report, or the 86
payment accompanying such return or report, by an employer or 87
taxpayer, rather than from an assessment by the commissioner, such 88
interest shall run from a period ninety days after the final 89
filing date of the annual return until the date the refund is 90
paid. 91

(2) Interest shall be allowed and paid at the rate per annum 92
prescribed by section 5703.47 of the Revised Code upon any 93
overpayment in excess of one dollar in respect of the tax imposed 94
under section 5747.02 or Chapter 5748. of the Revised Code from 95
the date of the overpayment until the date of the refund of the 96
overpayment, except that if any overpayment is refunded within 97
ninety days after the final filing date of the annual return or 98
ninety days after the return is filed, whichever is later, no 99
interest shall be allowed on such overpayment. If the overpayment 100
results from the carryback of a net operating loss or net capital 101
loss to a previous taxable year, the overpayment is deemed not to 102
have been made prior to the filing date, including any extension 103
thereof, for the taxable year in which the net operating loss or 104
net capital loss arises. For purposes of the payment of interest 105
on overpayments, no amount of tax, for any taxable year, shall be 106
treated as having been paid before the date on which the tax 107
return for that year was due without regard to any extension of 108
time for filing such return. 109

(3) Interest shall be allowed at the rate per annum 110
prescribed by section 5703.47 of the Revised Code on amounts 111
refunded with respect to the taxes imposed under sections 5733.41 112
and 5747.41 of the Revised Code. The interest shall run from 113

whichever of the following days is the latest until the day the 114
refund is paid: the day the illegal, erroneous, or excessive 115
payment was made; the ninetieth day after the final day the annual 116
report was required to be filed under section 5747.42 of the 117
Revised Code; or the ninetieth day after the day that report was 118
filed. 119

(D) "Ninety days" shall be substituted for "four years" in 120
division (B) of this section if the taxpayer satisfies both of the 121
following conditions: 122

(1) The taxpayer has applied for a refund based in whole or 123
in part upon section 5747.059 of the Revised Code; 124

(2) The taxpayer asserts that either the imposition or 125
collection of the tax imposed or charged by this chapter or any 126
portion of such tax violates the Constitution of the United States 127
or the Constitution of Ohio. 128

(E)(1) Division (E)(2) of this section applies only if all of 129
the following conditions are satisfied: 130

(a) A qualifying entity pays an amount of the tax imposed by 131
section 5733.41 or 5747.41 of the Revised Code; 132

(b) The taxpayer is a qualifying investor as to that 133
qualifying entity; 134

(c) The taxpayer did not claim the credit provided for in 135
section 5747.059 of the Revised Code as to the tax described in 136
division (E)(1)(a) of this section; 137

(d) The four-year period described in division (B) of this 138
section has ended as to the taxable year for which the taxpayer 139
otherwise would have claimed that credit. 140

(2) A taxpayer shall file an application for refund pursuant 141
to division (E) of this section within one year after the date the 142
payment described in division (E)(1)(a) of this section is made. 143

An application filed under division (E)(2) of this section shall 144
claim refund only of overpayments resulting from the taxpayer's 145
failure to claim the credit described in division (E)(1)(c) of 146
this section. Nothing in division (E) of this section shall be 147
construed to relieve a taxpayer from complying with division 148
(A)(16) of section 5747.01 of the Revised Code. 149

Sec. 5747.114. The tax commissioner shall establish a program 150
for the payment of income tax refunds by prepaid debit card. Under 151
the program, the commissioner shall provide a space on the income 152
tax return form in which a taxpayer may elect to receive a tax 153
refund in the form of a prepaid debit card. The form shall also 154
state the other refund payment options available to the taxpayer. 155
The commissioner shall describe in the instructions accompanying 156
the income tax return the features of the prepaid debit card 157
program, including any fee or fees which may be charged to the 158
taxpayer in accessing the taxpayer's refund. 159

The commissioner shall enter into agreements with one or more 160
prepaid debit card issuers whereby the issuer agrees to supply 161
prepaid debit cards for taxpayers and to credit prepaid debit 162
cards with the refund amounts specified by the commissioner. Each 163
such agreement shall specify that any fees associated with the use 164
of a prepaid debit card shall be incurred by the taxpayer. 165

Section 2. That existing sections 126.35 and 5747.11 of the 166
Revised Code are hereby repealed. 167

Section 3. The amendment or enactment by this act of sections 168
126.35, 5747.11, and 5747.114 of the Revised Code applies to 169
taxable years beginning on or after January 1, 2012. 170