

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 230

Representatives Grossman, Anielski

**Cosponsors: Representatives Duffey, Stinziano, Brenner, Hackett, Buchy,
Stebelton, Derickson**

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A B I L L

To amend sections 5747.98 and 5751.98 and to enact 1
sections 5747.78 and 5751.55 of the Revised Code 2
to authorize an income tax or commercial activity 3
tax credit for businesses that donate food 4
inventory to charitable organizations. 5

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

Section 1. That sections 5747.98 and 5751.98 be amended and 6
sections 5747.78 and 5751.55 of the Revised Code be enacted to 7
read as follows: 8

Sec. 5747.78. A refundable credit is allowed against the tax 9
imposed by section 5747.02 of the Revised Code for a taxpayer that 10
claims a deduction under section 170 of the Internal Revenue Code 11
for charitable contributions of apparently wholesome food from the 12
taxpayer's trade or business. The amount of the credit equals ten 13
per cent of the amount of such contributions that the taxpayer 14
deducted in computing federal taxable income for the taxable year. 15

The taxpayer shall claim the credit in the order required by 16
section 5747.98 of the Revised Code. If the credit allowed for any 17
taxable year exceeds the tax otherwise due under section 5747.02 18

of the Revised Code after allowing for any other credits preceding 19
the credit in the order prescribed by section 5747.98 of the 20
Revised Code, the excess shall be refunded to the taxpayer. 21

Nothing in this section limits or disallows pass-through 22
treatment of the credit. 23

Sec. 5747.98. (A) To provide a uniform procedure for 24
calculating the amount of tax due under section 5747.02 of the 25
Revised Code, a taxpayer shall claim any credits to which the 26
taxpayer is entitled in the following order: 27

(1) The retirement income credit under division (B) of 28
section 5747.055 of the Revised Code; 29

(2) The senior citizen credit under division (C) of section 30
5747.05 of the Revised Code; 31

(3) The lump sum distribution credit under division (D) of 32
section 5747.05 of the Revised Code; 33

(4) The dependent care credit under section 5747.054 of the 34
Revised Code; 35

(5) The lump sum retirement income credit under division (C) 36
of section 5747.055 of the Revised Code; 37

(6) The lump sum retirement income credit under division (D) 38
of section 5747.055 of the Revised Code; 39

(7) The lump sum retirement income credit under division (E) 40
of section 5747.055 of the Revised Code; 41

(8) The low-income credit under section 5747.056 of the 42
Revised Code; 43

(9) The credit for displaced workers who pay for job training 44
under section 5747.27 of the Revised Code; 45

(10) The campaign contribution credit under section 5747.29 46
of the Revised Code; 47

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	48 49
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	50 51
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	52 53
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	54 55
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	56 57
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	58 59
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	60 61
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	62 63
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	64 65
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	66 67
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	68 69 70
(22) The job training credit under section 5747.39 of the Revised Code;	71 72
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	73 74
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	75 76

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	77 78
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	79 80
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	81 82
(28) The small business investment credit under section 5747.81 of the Revised Code;	83 84
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	85 86
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	87 88
(31) The research and development credit under section 5747.331 of the Revised Code;	89 90
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	91 92
(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	93 94
(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	95 96
(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	97 98
(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	99 100 101
(37) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	102 103 104
(38) The refundable motion picture production credit under	105

section 5747.66 of the Revised Code~~;~~i 106

(39) The refundable credit for financial institution taxes 107
paid by a pass-through entity granted under section 5747.65 of the 108
Revised Codei 109

(40) The refundable credit for charitable contributions of 110
food inventory. 111

(B) For any credit, except the refundable credits enumerated 112
in this section and the credit granted under division (I) of 113
section 5747.08 of the Revised Code, the amount of the credit for 114
a taxable year shall not exceed the tax due after allowing for any 115
other credit that precedes it in the order required under this 116
section. Any excess amount of a particular credit may be carried 117
forward if authorized under the section creating that credit. 118
Nothing in this chapter shall be construed to allow a taxpayer to 119
claim, directly or indirectly, a credit more than once for a 120
taxable year. 121

Sec. 5751.55. A refundable credit is allowed against the tax 122
imposed by section 5751.02 of the Revised Code for a taxpayer that 123
claims a deduction under section 170 of the Internal Revenue Code 124
for charitable contributions of apparently wholesome food from the 125
taxpayer's trade or business. The taxpayer shall claim the credit 126
for the tax period that includes the last day of the taxable year 127
for which the taxpayer claimed the federal deduction. The amount 128
of the credit equals ten per cent of the amount of such 129
contributions that the taxpayer deducted in computing federal 130
taxable income for the taxable year. 131

The taxpayer shall claim the credit in the order required by 132
section 5751.98 of the Revised Code. If the credit allowed for any 133
tax period exceeds the tax otherwise due under section 5751.02 of 134
the Revised Code after allowing for any other credits preceding 135
the credit in the order prescribed by section 5751.98 of the 136

Revised Code, the excess shall be refunded to the taxpayer. 137

No credit shall be allowed under this chapter if the credit 138
was available against the tax imposed by section 5747.02 of the 139
Revised Code except to the extent the credit was not applied 140
against such tax. 141

As used in this section, "charitable contribution" and 142
"apparently wholesome food" have the same meanings as in section 143
170 of the Internal Revenue Code. 144

Sec. 5751.98. (A) To provide a uniform procedure for 145
calculating the amount of tax due under this chapter, a taxpayer 146
shall claim any credits to which it is entitled in the following 147
order: 148

(1) The nonrefundable jobs retention credit under division 149
(B) of section 5751.50 of the Revised Code; 150

(2) The nonrefundable credit for qualified research expenses 151
under division (B) of section 5751.51 of the Revised Code; 152

(3) The nonrefundable credit for a borrower's qualified 153
research and development loan payments under division (B) of 154
section 5751.52 of the Revised Code; 155

(4) The nonrefundable credit for calendar years 2010 to 2029 156
for unused net operating losses under division (B) of section 157
5751.53 of the Revised Code; 158

(5) The refundable motion picture production credit under 159
section 5751.54 of the Revised Code; 160

(6) The refundable jobs creation credit or job retention 161
credit under division (A) of section 5751.50 of the Revised Code; 162

(7) The refundable credit for calendar year 2030 for unused 163
net operating losses under division (C) of section 5751.53 of the 164
Revised Code; 165

(8) The refundable credit for charitable contributions of 166
food inventory. 167

(B) For any credit except the refundable credits enumerated 168
in this section, the amount of the credit for a tax period shall 169
not exceed the tax due after allowing for any other credit that 170
precedes it in the order required under this section. Any excess 171
amount of a particular credit may be carried forward if authorized 172
under the section creating the credit. 173

Section 2. That existing sections 5747.98 and 5751.98 of the 174
Revised Code are hereby repealed. 175

Section 3. Section 5747.98 of the Revised Code is presented 176
in this act as a composite of the section as amended by both Am. 177
Sub. H.B. 386 and Am. Sub. H.B. 510 of the 129th General Assembly. 178
The General Assembly, applying the principle stated in division 179
(B) of section 1.52 of the Revised Code that amendments are to be 180
harmonized if reasonably capable of simultaneous operation, finds 181
that the composite is the resulting version of the section in 182
effect prior to the effective date of the section as presented in 183
this act. 184