

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 297

Representatives Ginter, Powell

**Cosponsors: Representatives Scherer, McClain, Kick, Green, Hood, Manchester,
Vitale, Zeltwanger, Lang, Lipps, Antani, Riedel, Koehler, Keller**

A BILL

To amend sections 5747.08 and 5747.98 and to enact
section 5747.77 of the Revised Code to authorize
a refundable income tax credit for a taxpayer's
cash contributions to qualifying pregnancy
resource centers.

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

Section 1. That sections 5747.08 and 5747.98 be amended
and section 5747.77 of the Revised Code be enacted to read as
follows:

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 division (E) of
section 5747.05 and divisions (F) and (G) of section 5747.055 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 liable for a tax

imposed pursuant to Chapter 5748. of the Revised Code. 19

(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 22
person 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 30
shall be made and filed by the fiduciary of the estate or trust. 31

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

distributive share of the business credits as defined in 49
division (D) (2) of this section. A single check drawn by the 50
pass-through entity shall accompany the return in full payment 51
of the tax due, as shown on the single return, for such 52
investors, other than investors who are persons subject to the 53
tax imposed under section 5733.06 of the Revised Code. 54

(b) (i) A pass-through entity shall not include in such a 55
single return any investor that is a trust to the extent that 56
any direct or indirect current, future, or contingent 57
beneficiary of the trust is a person subject to the tax imposed 58
under section 5733.06 of the Revised Code. 59

(ii) A pass-through entity shall not include in such a 60
single return any investor that is itself a pass-through entity 61
to the extent that any direct or indirect investor in the second 62
pass-through entity is a person subject to the tax imposed under 63
section 5733.06 of the Revised Code. 64

(c) Nothing in division (D) of this section precludes the 65
tax commissioner from requiring such investors to file the 66
return and make the payment of taxes and related interest, 67
penalty, and interest penalty required by this section or 68
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 69
Nothing in division (D) of this section precludes such an 70
investor from filing the annual return under this section, 71
utilizing the refundable credit equal to the investor's 72
proportionate share of the tax paid by the pass-through entity 73
on behalf of the investor under division (I) of this section, 74
and making the payment of taxes imposed under section 5747.02 of 75
the Revised Code. Nothing in division (D) of this section shall 76
be construed to provide to such an investor or pass-through 77
entity any additional deduction or credit, other than the credit 78

provided by division (I) of this section, solely on account of 79
the entity's filing a return in accordance with this section. 80
Such a pass-through entity also shall make the filing and 81
payment of estimated taxes on behalf of the pass-through entity 82
investors other than an investor that is a person subject to the 83
tax imposed under section 5733.06 of the Revised Code. 84

(2) For the purposes of this section, "business credits" 85
means the credits listed in section 5747.98 of the Revised Code 86
excluding the following credits: 87

(a) The retirement income credit under division (B) of 88
section 5747.055 of the Revised Code; 89

(b) The senior citizen credit under division (F) of 90
section 5747.055 of the Revised Code; 91

(c) The lump sum distribution credit under division (G) of 92
section 5747.055 of the Revised Code; 93

(d) The dependent care credit under section 5747.054 of 94
the Revised Code; 95

(e) The lump sum retirement income credit under division 96
(C) of section 5747.055 of the Revised Code; 97

(f) The lump sum retirement income credit under division 98
(D) of section 5747.055 of the Revised Code; 99

(g) The lump sum retirement income credit under division 100
(E) of section 5747.055 of the Revised Code; 101

(h) The credit for displaced workers who pay for job 102
training under section 5747.27 of the Revised Code; 103

(i) The twenty-dollar personal exemption credit under 104
section 5747.022 of the Revised Code; 105

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| (j) The joint filing credit under division (E) of section 5747.05 of the Revised Code; | 106 107 |
| (k) The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 108 109 |
| (l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 110 111 |
| (m) The earned income tax credit under section 5747.71 of the Revised Code; | 112 113 |
| <u>(n) The pregnancy resource center donation credit under section 5747.77 of the Revised Code.</u> | 114 115 |
| (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. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return. | 116 117 118 119 120 121 122 123 |
| (4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of | 124 125 126 127 128 129 130 131 132 133 134 |

this section. For the purposes of division (D) of this section, 135
"correct tax due" means the tax that would have been paid by the 136
pass-through entity had the single return been filed in a manner 137
reflecting the commissioner's findings. Nothing in division (D) 138
of this section shall be construed to make or hold a pass- 139
through entity liable for tax attributable to a pass-through 140
entity investor's income from a source other than the pass- 141
through entity electing to file the single return. 142

(E) If a husband and wife file a joint federal income tax 143
return for a taxable year, they shall file a joint return under 144
this section for that taxable year, and their liabilities are 145
joint and several, but, if the federal income tax liability of 146
either spouse is determined on a separate federal income tax 147
return, they shall file separate returns under this section. 148

If either spouse is not required to file a federal income 149
tax return and either or both are required to file a return 150
pursuant to this chapter, they may elect to file separate or 151
joint returns, and, pursuant to that election, their liabilities 152
are separate or joint and several. If a husband and wife file 153
separate returns pursuant to this chapter, each must claim the 154
taxpayer's own exemption, but not both, as authorized under 155
section 5747.02 of the Revised Code on the taxpayer's own 156
return. 157

(F) Each return or notice required to be filed under this 158
section shall contain the signature of the taxpayer or the 159
taxpayer's duly authorized agent and of the person who prepared 160
the return for the taxpayer, and shall include the taxpayer's 161
social security number. Each return shall be verified by a 162
declaration under the penalties of perjury. The tax commissioner 163
shall prescribe the form that the signature and declaration 164

shall take. 165

(G) Each return or notice required to be filed under this 166
section shall be made and filed as required by section 5747.04 167
of the Revised Code, on or before the fifteenth day of April of 168
each year, on forms that the tax commissioner shall prescribe, 169
together with remittance made payable to the treasurer of state 170
in the combined amount of the state and all school district 171
income taxes shown to be due on the form. 172

Upon good cause shown, the commissioner may extend the 173
period for filing any notice or return required to be filed 174
under this section and may adopt rules relating to extensions. 175
If the extension results in an extension of time for the payment 176
of any state or school district income tax liability with 177
respect to which the return is filed, the taxpayer shall pay at 178
the time the tax liability is paid an amount of interest 179
computed at the rate per annum prescribed by section 5703.47 of 180
the Revised Code on that liability from the time that payment is 181
due without extension to the time of actual payment. Except as 182
provided in section 5747.132 of the Revised Code, in addition to 183
all other interest charges and penalties, all taxes imposed 184
under this chapter or Chapter 5748. of the Revised Code and 185
remaining unpaid after they become due, except combined amounts 186
due of one dollar or less, bear interest at the rate per annum 187
prescribed by section 5703.47 of the Revised Code until paid or 188
until the day an assessment is issued under section 5747.13 of 189
the Revised Code, whichever occurs first. 190

If the commissioner considers it necessary in order to 191
ensure the payment of the tax imposed by section 5747.02 of the 192
Revised Code or any tax imposed under Chapter 5748. of the 193
Revised Code, the commissioner may require returns and payments 194

to be made otherwise than as provided in this section. 195

To the extent that any provision in this division 196
conflicts with any provision in section 5747.026 of the Revised 197
Code, the provision in that section prevails. 198

(H) The amounts withheld by an employer pursuant to 199
section 5747.06 of the Revised Code, a casino operator pursuant 200
to section 5747.063 of the Revised Code, or a lottery sales 201
agent pursuant to section 5747.064 of the Revised Code shall be 202
allowed to the recipient of the compensation casino winnings, or 203
lottery prize award as credits against payment of the 204
appropriate taxes imposed on the recipient by section 5747.02 205
and under Chapter 5748. of the Revised Code. 206

(I) If a pass-through entity elects to file a single 207
return under division (D) of this section and if any investor is 208
required to file the annual return and make the payment of taxes 209
required by this chapter on account of the investor's other 210
income that is not included in a single return filed by a pass- 211
through entity or any other investor elects to file the annual 212
return, the investor is entitled to a refundable credit equal to 213
the investor's proportionate share of the tax paid by the pass- 214
through entity on behalf of the investor. The investor shall 215
claim the credit for the investor's taxable year in which or 216
with which ends the taxable year of the pass-through entity. 217
Nothing in this chapter shall be construed to allow any credit 218
provided in this chapter to be claimed more than once. For the 219
purpose of computing any interest, penalty, or interest penalty, 220
the investor shall be deemed to have paid the refundable credit 221
provided by this division on the day that the pass-through 222
entity paid the estimated tax or the tax giving rise to the 223
credit. 224

(J) The tax commissioner shall ensure that each return 225
required to be filed under this section includes a box that the 226
taxpayer may check to authorize a paid tax preparer who prepared 227
the return to communicate with the department of taxation about 228
matters pertaining to the return. The return or instructions 229
accompanying the return shall indicate that by checking the box 230
the taxpayer authorizes the department of taxation to contact 231
the preparer concerning questions that arise during the 232
processing of the return and authorizes the preparer only to 233
provide the department with information that is missing from the 234
return, to contact the department for information about the 235
processing of the return or the status of the taxpayer's refund 236
or payments, and to respond to notices about mathematical 237
errors, offsets, or return preparation that the taxpayer has 238
received from the department and has shown to the preparer. 239

(K) The tax commissioner shall permit individual taxpayers 240
to instruct the department of taxation to cause any refund of 241
overpaid taxes to be deposited directly into a checking account, 242
savings account, or an individual retirement account or 243
individual retirement annuity, or preexisting college savings 244
plan or program account offered by the Ohio tuition trust 245
authority under Chapter 3334. of the Revised Code, as designated 246
by the taxpayer, when the taxpayer files the annual return 247
required by this section electronically. 248

(L) The tax commissioner may adopt rules to administer 249
this section. 250

Sec. 5747.77. (A) For the purposes of this section, 251
"qualifying pregnancy resource center" means a nonprofit 252
organization exempt from taxation under section 501(c) of the 253
Internal Revenue Code, the principal purpose of which is to 254

provide free assistance, including pregnancy tests, ultrasound, 255
prenatal vitamins, maternity clothing, baby clothes and 256
furniture, diapers, cribs and car seats, housing and utilities 257
assistance, and nutritional counseling for pregnant women in 258
carrying their pregnancies to term. "Qualifying pregnancy 259
resource center" does not include a hospital as defined in 260
section 3727.01 of the Revised Code or a nursing home or 261
residential care facility as defined in section 3721.01 of the 262
Revised Code. 263

(B) There is hereby allowed a refundable credit against 264
the aggregate tax liability under section 5747.02 of the Revised 265
Code of a taxpayer that contributes cash to one or more 266
qualifying pregnancy resource centers. The amount of the credit 267
equals fifty per cent of the aggregate amount of the taxpayer's 268
contributions during the taxable year. 269

(C) If the taxpayer is a pass-through entity, the credit 270
may be allocated among the entity's equity owners in proportion 271
to their ownership interests or in such proportions or amounts 272
as the equity owners mutually agree. 273

(D) The credit allowed by this section shall be claimed in 274
the order prescribed by section 5747.98 of the Revised Code. If 275
the amount of the credit exceeds the tax otherwise due for the 276
taxable year after allowing for any other credits preceding the 277
credit in the order prescribed by that section, the excess shall 278
be refunded to the taxpayer. 279

Sec. 5747.98. (A) To provide a uniform procedure for 280
calculating a taxpayer's aggregate tax liability under section 281
5747.02 of the Revised Code, a taxpayer shall claim any credits 282
to which the taxpayer is entitled in the following order: 283

| | |
|----------------------------------------------------------------|-----|
| (1) Either the retirement income credit under division (B) | 284 |
| of section 5747.055 of the Revised Code or the lump sum | 285 |
| retirement income credits under divisions (C), (D), and (E) of | 286 |
| that section; | 287 |
| (2) Either the senior citizen credit under division (F) of | 288 |
| section 5747.055 of the Revised Code or the lump sum | 289 |
| distribution credit under division (G) of that section; | 290 |
| (3) The dependent care credit under section 5747.054 of | 291 |
| the Revised Code; | 292 |
| (4) The credit for displaced workers who pay for job | 293 |
| training under section 5747.27 of the Revised Code; | 294 |
| (5) The campaign contribution credit under section 5747.29 | 295 |
| of the Revised Code; | 296 |
| (6) The twenty-dollar personal exemption credit under | 297 |
| section 5747.022 of the Revised Code; | 298 |
| (7) The joint filing credit under division (G) of section | 299 |
| 5747.05 of the Revised Code; | 300 |
| (8) The earned income credit under section 5747.71 of the | 301 |
| Revised Code; | 302 |
| (9) The credit for adoption of a minor child under section | 303 |
| 5747.37 of the Revised Code; | 304 |
| (10) The nonrefundable job retention credit under division | 305 |
| (B) of section 5747.058 of the Revised Code; | 306 |
| (11) The enterprise zone credit under section 5709.66 of | 307 |
| the Revised Code; | 308 |
| (12) The ethanol plant investment credit under section | 309 |
| 5747.75 of the Revised Code; | 310 |

| | |
|----------------------------------------------------------------|-----|
| (13) The credit for purchases of qualifying grape | 311 |
| production property under section 5747.28 of the Revised Code; | 312 |
| (14) The small business investment credit under section | 313 |
| 5747.81 of the Revised Code; | 314 |
| (15) The enterprise zone credits under section 5709.65 of | 315 |
| the Revised Code; | 316 |
| (16) The research and development credit under section | 317 |
| 5747.331 of the Revised Code; | 318 |
| (17) The credit for rehabilitating a historic building | 319 |
| under section 5747.76 of the Revised Code; | 320 |
| (18) The nonresident credit under division (A) of section | 321 |
| 5747.05 of the Revised Code; | 322 |
| (19) The credit for a resident's out-of-state income under | 323 |
| division (B) of section 5747.05 of the Revised Code; | 324 |
| (20) The refundable motion picture production credit under | 325 |
| section 5747.66 of the Revised Code; | 326 |
| (21) The refundable jobs creation credit or job retention | 327 |
| credit under division (A) of section 5747.058 of the Revised | 328 |
| Code; | 329 |
| (22) The refundable credit for taxes paid by a qualifying | 330 |
| entity granted under section 5747.059 of the Revised Code; | 331 |
| (23) The refundable credits for taxes paid by a qualifying | 332 |
| pass-through entity granted under division (I) of section | 333 |
| 5747.08 of the Revised Code; | 334 |
| (24) The refundable credit under section 5747.80 of the | 335 |
| Revised Code for losses on loans made to the Ohio venture | 336 |
| capital program under sections 150.01 to 150.10 of the Revised | 337 |

Code; 338

(25) The refundable credit for rehabilitating a historic 339
building under section 5747.76 of the Revised Code; 340

(26) The refundable credit for financial institution taxes 341
paid by a pass-through entity granted under section 5747.65 of 342
the Revised Code; 343

(27) The refundable credit for making contributions to a 344
qualifying pregnancy resource center under section 5747.77 of 345
the Revised Code. 346

(B) For any credit, except the refundable credits 347
enumerated in this section and the credit granted under division 348
(H) of section 5747.08 of the Revised Code, the amount of the 349
credit for a taxable year shall not exceed the taxpayer's 350
aggregate amount of tax due under section 5747.02 of the Revised 351
Code, after allowing for any other credit that precedes it in 352
the order required under this section. Any excess amount of a 353
particular credit may be carried forward if authorized under the 354
section creating that credit. Nothing in this chapter shall be 355
construed to allow a taxpayer to claim, directly or indirectly, 356
a credit more than once for a taxable year. 357

Section 2. That existing sections 5747.08 and 5747.98 of 358
the Revised Code are hereby repealed. 359

Section 3. The amendment or enactment by this act of 360
section 5747.77 and division (A) (27) of section 5747.98 of the 361
Revised Code applies to taxable years beginning on or after 362
January 1, 2019. 363