

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 124

Representatives Roemer, Young, B.

Cosponsors: Representatives Seitz, Young, T.



A BILL

To amend sections 5733.41 and 5747.41 of the 1
Revised Code to equalize the pass-through entity 2
withholding and the business income tax rate. 3

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

Section 1. That sections 5733.41 and 5747.41 of the 4
Revised Code be amended to read as follows: 5

Sec. 5733.41. The purpose of the tax imposed by this 6
section is to complement and to reinforce the tax imposed under 7
section 5733.06 of the Revised Code. 8

For the same purposes for which the tax is levied under 9
section 5733.06 of the Revised Code, there is hereby levied a 10
tax on every qualifying pass-through entity having at least one 11
qualifying investor that is not an individual. The tax imposed 12
by this section is imposed on the sum of the adjusted qualifying 13
amounts of the qualifying pass-through entity's qualifying 14
investors, that are ~~not neither~~ individuals ~~as follows: for~~ 15
~~qualifying investors nor~~ subject to division (G) (2) of section 16
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 17
~~for the entity's taxable year ending in 2005, at five and one~~ 18

~~tenth per cent for the entity's taxable year ending in 2006, at 19
three and four tenths per cent for the entity's taxable year 20
ending in 2007, at one and seven tenths per cent for the 21
entity's taxable year ending in 2008, and at zero per cent for 22
the entity's taxable year ending in 2009 or in subsequent years, 23
and for all other qualifying investors that are not individuals, 24
at the a rate of eight and one half per cent equal to the tax 25
rate imposed on taxable business income under division (A) (4) (a) 26
of section 5747.02 of the Revised Code. 27~~

The tax imposed by this section applies only if the 28
qualifying entity has nexus with this state under the 29
Constitution of the United States for any portion of the 30
qualifying entity's qualifying taxable year, and the sum of the 31
qualifying entity's adjusted qualifying amounts exceeds one 32
thousand dollars for the qualifying entity's qualifying taxable 33
year. This section does not apply to a pass-through entity if 34
all of the partners, shareholders, members, or investors of the 35
pass-through entity are taxpayers for the purposes of section 36
5733.04 of the Revised Code without regard to section 5733.09 of 37
the Revised Code for the entire qualifying taxable year of the 38
pass-through entity. 39

If, prior to the due date of the return, a qualifying 40
pass-through entity receives from an investor a written 41
representation, under penalties of perjury, that the investor is 42
described in division (I) (1), (2), (6), (7), (8), or (9) of 43
section 5733.40 of the Revised Code for the qualifying pass- 44
through entity's entire qualifying taxable year, the qualifying 45
pass-through entity is not required to withhold or pay the taxes 46
or estimated taxes imposed under this section or sections 47
5747.41 to 5747.453 of the Revised Code with respect to that 48
investor for that qualifying taxable year, and is not subject to 49

any interest or interest penalties for failure to withhold or 50
pay those taxes or estimated taxes with respect to that investor 51
for that qualifying taxable year. 52

If, prior to the due date of the return, a qualifying 53
trust receives from a beneficiary of that trust a written 54
representation, under penalties of perjury, that the beneficiary 55
is a resident taxpayer for the purposes of Chapter 5747. of the 56
Revised Code for the qualifying trust's entire qualifying 57
taxable year, the qualifying trust is not required to withhold 58
or pay the taxes or estimated taxes imposed under this section 59
or sections 5747.41 to 5747.453 of the Revised Code with respect 60
to that beneficiary for that qualifying taxable year, and is not 61
subject to any interest or interest penalties for failure to 62
withhold or pay those taxes or estimated taxes with respect to 63
that beneficiary for that qualifying taxable year. 64

The tax commissioner may adopt rules for the purpose of 65
the tax levied by this section or section 5747.41 of the Revised 66
Code, including a rule defining "qualifying investor" or 67
"qualifying beneficiary," and a rule requiring or permitting a 68
qualifying entity to combine its income with related members and 69
to pay the tax and estimated tax on a combined basis. 70

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 71
Revised Code apply to a qualifying entity subject to the tax 72
imposed under this section. 73

The levy of the tax under this section does not prevent a 74
municipal corporation or a joint economic development district 75
created under section 715.70, 715.71, or 715.72 of the Revised 76
Code from levying a tax on income. 77

Sec. 5747.41. For the same purposes for which the tax is 78

levied under section 5747.02 of the Revised Code, there is 79
hereby levied a withholding tax on every qualifying pass-through 80
entity having at least one qualifying investor who is an 81
individual and on every qualifying trust having at least one 82
qualifying beneficiary who is an individual. The withholding tax 83
imposed by this section is imposed on the sum of the adjusted 84
qualifying amounts of a qualifying pass-through entity's 85
qualifying investors who are individuals and on the sum of the 86
adjusted qualifying amounts of a qualifying trust's qualifying 87
beneficiaries, ~~at the a rate of five per cent of that sum~~ equal 88
to the tax rate imposed on taxable business income under 89
division (A) (4) (a) of section 5747.02 of the Revised Code. 90

The tax imposed by this section applies only if the 91
qualifying entity has nexus with this state under the 92
Constitution of the United States for any portion of the 93
qualifying entity's qualifying taxable year, and the sum of the 94
qualifying entity's adjusted qualifying amounts exceeds one 95
thousand dollars for the qualifying entity's qualifying taxable 96
year. 97

Section 2. That existing sections 5733.41 and 5747.41 of 98
the Revised Code are hereby repealed. 99

Section 3. The amendment by this act of sections 5733.41 100
and 5747.41 of the Revised Code applies to qualifying taxable 101
years beginning on or after January 1, 2023. 102