

As Introduced

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H. B. No. 249

Representatives Powell, McClain

**Cosponsors: Representatives Cutrona, Pavliga, Zeltwanger, Gross, Riedel,
Jordan, LaRe, Stoltzfus, Cross, Fowler Arthur, Click, Ginter, Kick**

A BILL

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.77 of the Revised Code to authorize 2
a nonrefundable income tax credit for 3
contributions to certain charitable 4
organizations. 5

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

Section 1. That sections 5747.08 and 5747.98 be amended 6
and section 5747.77 of the Revised Code be enacted to read as 7
follows: 8

Sec. 5747.08. An annual return with respect to the tax 9
imposed by section 5747.02 of the Revised Code and each tax 10
imposed under Chapter 5748. of the Revised Code shall be made by 11
every taxpayer for any taxable year for which the taxpayer is 12
liable for the tax imposed by that section or under that 13
chapter, unless the total credits allowed under division (E) of 14
section 5747.05 and divisions (F) and (G) of section 5747.055 of 15
the Revised Code for the year are equal to or exceed the tax 16
imposed by section 5747.02 of the Revised Code, in which case no 17
return shall be required unless the taxpayer is liable for a tax 18

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
(n) The lead abatement credit under section 5747.26 of the Revised Code;	114 115
<u>(o) The certified charitable organization contribution credit under section 5747.77 of the Revised Code.</u>	116 117
(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.	118 119 120 121 122 123 124 125
(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,	126 127 128 129 130 131 132 133 134

interest penalty, or penalties as a result of the pass-through 135
entity's making the election provided for under division (D) of 136
this section. For the purposes of division (D) of this section, 137
"correct tax due" means the tax that would have been paid by the 138
pass-through entity had the single return been filed in a manner 139
reflecting the commissioner's findings. Nothing in division (D) 140
of this section shall be construed to make or hold a pass- 141
through entity liable for tax attributable to a pass-through 142
entity investor's income from a source other than the pass- 143
through entity electing to file the single return. 144

(E) If a husband and wife file a joint federal income tax 145
return for a taxable year, they shall file a joint return under 146
this section for that taxable year, and their liabilities are 147
joint and several, but, if the federal income tax liability of 148
either spouse is determined on a separate federal income tax 149
return, they shall file separate returns under this section. 150

If either spouse is not required to file a federal income 151
tax return and either or both are required to file a return 152
pursuant to this chapter, they may elect to file separate or 153
joint returns, and, pursuant to that election, their liabilities 154
are separate or joint and several. If a husband and wife file 155
separate returns pursuant to this chapter, each must claim the 156
taxpayer's own exemption, but not both, as authorized under 157
section 5747.02 of the Revised Code on the taxpayer's own 158
return. 159

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

declaration under the penalties of perjury. The tax commissioner 165
shall prescribe the form that the signature and declaration 166
shall take. 167

(G) Each return or notice required to be filed under this 168
section shall be made and filed as required by section 5747.04 169
of the Revised Code, on or before the fifteenth day of April of 170
each year, on forms that the tax commissioner shall prescribe, 171
together with remittance made payable to the treasurer of state 172
in the combined amount of the state and all school district 173
income taxes shown to be due on the form. 174

Upon good cause shown, the commissioner may extend the 175
period for filing any notice or return required to be filed 176
under this section and may adopt rules relating to extensions. 177
If the extension results in an extension of time for the payment 178
of any state or school district income tax liability with 179
respect to which the return is filed, the taxpayer shall pay at 180
the time the tax liability is paid an amount of interest 181
computed at the rate per annum prescribed by section 5703.47 of 182
the Revised Code on that liability from the time that payment is 183
due without extension to the time of actual payment. Except as 184
provided in section 5747.132 of the Revised Code, in addition to 185
all other interest charges and penalties, all taxes imposed 186
under this chapter or Chapter 5748. of the Revised Code and 187
remaining unpaid after they become due, except combined amounts 188
due of one dollar or less, bear interest at the rate per annum 189
prescribed by section 5703.47 of the Revised Code until paid or 190
until the day an assessment is issued under section 5747.13 of 191
the Revised Code, whichever occurs first. 192

If the commissioner considers it necessary in order to 193
ensure the payment of the tax imposed by section 5747.02 of the 194

Revised Code or any tax imposed under Chapter 5748. of the 195
Revised Code, the commissioner may require returns and payments 196
to be made otherwise than as provided in this section. 197

To the extent that any provision in this division 198
conflicts with any provision in section 5747.026 of the Revised 199
Code, the provision in that section prevails. 200

(H) The amounts withheld by an employer pursuant to 201
section 5747.06 of the Revised Code, a casino operator pursuant 202
to section 5747.063 of the Revised Code, or a lottery sales 203
agent pursuant to section 5747.064 of the Revised Code shall be 204
allowed to the recipient of the compensation casino winnings, or 205
lottery prize award as credits against payment of the 206
appropriate taxes imposed on the recipient by section 5747.02 207
and under Chapter 5748. of the Revised Code. 208

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

entity paid the estimated tax or the tax giving rise to the 225
credit. 226

(J) The tax commissioner shall ensure that each return 227
required to be filed under this section includes a box that the 228
taxpayer may check to authorize a paid tax preparer who prepared 229
the return to communicate with the department of taxation about 230
matters pertaining to the return. The return or instructions 231
accompanying the return shall indicate that by checking the box 232
the taxpayer authorizes the department of taxation to contact 233
the preparer concerning questions that arise during the 234
processing of the return and authorizes the preparer only to 235
provide the department with information that is missing from the 236
return, to contact the department for information about the 237
processing of the return or the status of the taxpayer's refund 238
or payments, and to respond to notices about mathematical 239
errors, offsets, or return preparation that the taxpayer has 240
received from the department and has shown to the preparer. 241

(K) The tax commissioner shall permit individual taxpayers 242
to instruct the department of taxation to cause any refund of 243
overpaid taxes to be deposited directly into a checking account, 244
savings account, or an individual retirement account or 245
individual retirement annuity, or preexisting college savings 246
plan or program account offered by the Ohio tuition trust 247
authority under Chapter 3334. of the Revised Code, as designated 248
by the taxpayer, when the taxpayer files the annual return 249
required by this section electronically. 250

(L) A taxpayer claiming the deduction under division (A) 251
(31) of section 5747.01 of the Revised Code for a taxable year 252
shall indicate on the taxpayer's return the north American 253
industry classification system code of each business or 254

professional activity from which the taxpayer's business income 255
was derived. The tax commissioner shall provide space on the 256
return for this purpose and shall prescribe, by rule adopted in 257
accordance with Chapter 119. of the Revised Code, the manner by 258
which such a taxpayer shall determine the taxpayer's proper 259
classification codes and business or professional activities 260
from which the taxpayer derives business income. 261

(M) The tax commissioner may adopt rules to administer 262
this section. 263

Sec. 5747.77. (A) As used in this section: 264

(1) "Affiliate" means a person that has with another 265
person a legal relationship created or governed by at least one 266
written instrument that demonstrates any of the following: 267

(a) Common ownership, management, or control; 268

(b) A franchise agreement; 269

(c) The granting or extension of a license or other 270
agreement that authorizes a person to use the other person's 271
brand name, trademark, service mark, or other registered 272
identification mark. 273

(2) "Nontherapeutic abortion" has the same meaning as in 274
section 9.04 of the Revised Code. 275

(3) "Promote" means to advocate for, assist with, 276
encourage, or popularize through advertising or publicity. 277

(4) "Individual with a chronic illness or physical 278
disability" means an individual whose primary diagnosis is a 279
severe physical condition that may require ongoing medical or 280
surgical intervention. 281

(5) "Low-income individual" means an individual whose household income does not exceed one hundred fifty per cent of the federal poverty line, as defined in section 122.66 of the Revised Code, for a family size equal to the size of the individual's family. 282
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(6) "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement, and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state. 287
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(7) "Community action agency" has the same meaning as in section 122.66 of the Revised Code. 292
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(8) "Charitable organization" means a nonprofit organization exempt from taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) of the Internal Revenue Code or a community action agency that receives community services block grant funds pursuant to 42 U.S.C. 9901, provided the organization or agency spends at least fifty per cent of its budget on programs or services to benefit the following residents of this state: 294
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(a) Low-income individuals and their households; 302

(b) Individuals with a chronic illness or physical disability; 303
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(c) Individuals receiving funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 42 U.S.C. 601, as amended and officially cited as the "Social Security Act," including the regulations and requirements issued pursuant thereto." 305
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Charitable organization" does not include an organization 311
that performs or promotes nontherapeutic abortions, contracts 312
with any person that performs or promotes nontherapeutic 313
abortions, or is an affiliate of any person that performs or 314
promotes nontherapeutic abortions. 315

(9) "Certified charitable organization" means a charitable 316
organization certified by the tax commissioner under division 317
(B) of this section. 318

(B) A charitable organization may apply to the tax 319
commissioner, on forms and in the manner prescribed by the 320
commissioner, to be certified so that contributions to the 321
organization qualify for the tax credit authorized in division 322
(C) of this section. With this application, the charitable 323
organization shall certify that it meets all of the requirements 324
of a charitable organization by submitting the following 325
information: 326

(1) Verification that the organization qualifies as a 327
nonprofit organization or a community action agency described in 328
division (A) (8) of this section; 329

(2) A copy of the organization's financial statements 330
indicating the organization's budget for the prior operating 331
year and the amount of revenue spent on services to residents 332
described in divisions (A) (8) (a) to (c) of this section; 333

(3) A statement that the organization plans to continue to 334
spend at least fifty per cent of its budget on services to such 335
residents; 336

(4) A statement that the organization does not perform or 337
promote nontherapeutic abortions, contract with any person that 338
performs or promotes nontherapeutic abortions, and is not an 339

affiliate of any person that performs or promotes nontherapeutic 340
abortions. 341

The application shall be signed by an officer of the 342
organization. The tax commissioner shall review each application 343
and determine if the organization meets the requirements of a 344
charitable organization. The commissioner shall notify the 345
applicant of the commissioner's determination within thirty days 346
after the commissioner receives the application. 347

After granting certification to a charitable organization, 348
the commissioner may periodically request recertification from 349
the organization. Upon receiving a recertification request, the 350
organization must send to the tax commissioner all of the 351
information required under divisions (B) (1) to (4) of this 352
section and anything else needed by the commissioner to verify 353
that the organization continues to qualify as a charitable 354
organization. The commissioner shall revoke the certification of 355
any organization that no longer qualifies as a charitable 356
organization under this section. After an organization's 357
certification is revoked, the organization may again be 358
certified if the organization submits another application and 359
written certification to the tax commissioner as required under 360
this division. 361

The commissioner shall post and maintain a list of all 362
certified charitable organizations on the department of 363
taxation's web site. 364

(C) There is hereby allowed a nonrefundable credit against 365
the aggregate tax liability under section 5747.02 of the Revised 366
Code for a taxpayer that contributes cash, on or after January 367
1, 2023, and on or before December 31, 2027, to one or more 368
certified charitable organizations operating in this state. The 369

amount of the credit equals fifty per cent of the aggregate 370
amount of the taxpayer's contributions during the taxable year 371
but may not exceed one thousand dollars in a taxable year for 372
taxpayers filing a joint return or five hundred dollars in a 373
taxable year for all other taxpayers. 374

The credit authorized by this section is not allowed 375
unless the taxpayer claiming the credit provides to the tax 376
commissioner, in the form and manner required by the 377
commissioner, a copy of a receipt or other document issued by 378
the certified charitable organization acknowledging the 379
taxpayer's contribution to the organization and the amount of 380
the contribution. The commissioner may require a taxpayer to 381
furnish any other information necessary to support a claim for 382
the credit. No credit shall be allowed unless a copy of such 383
document or other required information is provided. 384

If the taxpayer is a pass-through entity, the credit may 385
be allocated among the entity's equity owners in proportion to 386
their ownership interests or in such proportions or amounts as 387
the equity owners mutually agree. 388

The credit allowed by this section shall be claimed in the 389
order prescribed by section 5747.98 of the Revised Code. Any 390
credit amount in excess of the taxpayer's tax liability, after 391
allowing for any other credits preceding the credit in that 392
order, may be carried forward to the following taxable year. 393

Sec. 5747.98. (A) To provide a uniform procedure for 394
calculating a taxpayer's aggregate tax liability under section 395
5747.02 of the Revised Code, a taxpayer shall claim any credits 396
to which the taxpayer is entitled in the following order: 397

Either the retirement income credit under division (B) of 398

section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;	399 400 401
Either the senior citizen credit under division (F) of section 5747.055 of the Revised Code or the lump sum distribution credit under division (G) of that section;	402 403 404
The dependent care credit under section 5747.054 of the Revised Code;	405 406
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	407 408
The campaign contribution credit under section 5747.29 of the Revised Code;	409 410
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	411 412
The joint filing credit under division (G) of section 5747.05 of the Revised Code;	413 414
The earned income credit under section 5747.71 of the Revised Code;	415 416
<u>The nonrefundable credit for making contributions to a certified charitable organization under section 5747.77 of the Revised Code;</u>	417 418 419
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	420 421
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	422 423
The enterprise zone credit under section 5709.66 of the Revised Code;	424 425

The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	426 427
The small business investment credit under section 5747.81 of the Revised Code;	428 429
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	430 431
The opportunity zone investment credit under section 122.84 of the Revised Code;	432 433
The enterprise zone credits under section 5709.65 of the Revised Code;	434 435
The research and development credit under section 5747.331 of the Revised Code;	436 437
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	438 439
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	440 441
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	442 443
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	444 445
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	446 447 448
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	449 450
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section	451 452

5747.08 of the Revised Code;	453
The refundable credit under section 5747.80 of the Revised	454
Code for losses on loans made to the Ohio venture capital	455
program under sections 150.01 to 150.10 of the Revised Code;	456
The refundable credit for rehabilitating a historic	457
building under section 5747.76 of the Revised Code.	458
(B) For any credit, except the refundable credits	459
enumerated in this section and the credit granted under division	460
(H) of section 5747.08 of the Revised Code, the amount of the	461
credit for a taxable year shall not exceed the taxpayer's	462
aggregate amount of tax due under section 5747.02 of the Revised	463
Code, after allowing for any other credit that precedes it in	464
the order required under this section. Any excess amount of a	465
particular credit may be carried forward if authorized under the	466
section creating that credit. Nothing in this chapter shall be	467
construed to allow a taxpayer to claim, directly or indirectly,	468
a credit more than once for a taxable year.	469
Section 2. That existing sections 5747.08 and 5747.98 of	470
the Revised Code are hereby repealed.	471