

As Passed by the House

134th General Assembly

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Sub. S. B. No. 18

Senators Roegner, Schaffer

Cosponsors: Senators Blessing, Cirino, Dolan, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Johnson, Kunze, Lang, McColley, O'Brien, Peterson, Reineke, Schuring, Sykes, Thomas, Wilson, Yuko Representatives Merrin, Roemer, Abrams, Baldrige, Blackshear, Boyd, Brown, Carruthers, Click, Cutrona, Dean, Edwards, Fraizer, Galonski, Ghanbari, Ginter, Gross, Hall, Hicks-Hudson, Hillyer, Householder, Ingram, Jarrells, Johnson, Jones, LaRe, Lepore-Hagan, Lipps, McClain, Miller, J., Miranda, O'Brien, Richardson, Riedel, Schmidt, Sobecki, Stephens, Swearingen, Sykes, Troy, West, White, Wiggam, Young, B., Young, T., Speaker Cupp

A BILL

To amend sections 4141.321, 5701.11, 5733.41, and 1
5747.41 and to enact section 5747.065 of the 2
Revised Code and to amend Section 36 of H.B. 481 3
of the 133rd General Assembly to modify the law 4
governing taxation and to declare an emergency. 5

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

Section 1. That sections 4141.321, 5701.11, 5733.41, and 6
5747.41 be amended and section 5747.065 of the Revised Code be 7
enacted to read as follows: 8

Sec. 4141.321. (A) The director of job and family services 9
shall inform an individual who files an application for 10
determination of benefit rights ~~on and after January 1, 1997,~~ of 11
all of the following at the time the individual files the 12

application: 13

(1) Unemployment compensation is subject to federal and 14
state income tax~~taxes~~; 15

(2) Requirements exist pertaining to estimated tax 16
payments; 17

(3) An individual may elect to have federal and state 18
income ~~tax~~ taxes deducted and withheld from the unemployment 19
compensation benefits payable to that individual in the ~~amount~~ 20
~~specified in amounts required under~~ the "Internal Revenue Code 21
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq. and section 22
5747.065 of the Revised Code; 23

(4) An individual may change the withholding status the 24
individual has previously elected once during the individual's 25
benefit year. 26

(B) ~~The~~ If the individual makes the election under 27
division (A) (3) of this section, the director shall deduct and 28
withhold from unemployment compensation benefits payable to an 29
individual ~~after December 31, 1996,~~ federal income tax in the 30
amount specified in the "Internal Revenue Code of 1986," 100 31
Stat. 2085, 26 U.S.C.A. 1 et seq., ~~if the individual informs the~~ 32
~~director that the individual elects to have the director make~~ 33
~~the deduction~~ and state income tax as required under section 34
5747.065 of the Revised Code. 35

(C) In ~~making the deduction specified in~~ deducting federal 36
income tax under division (B) of this section, the director 37
shall comply with the procedures specified by the United States 38
department of labor and the internal revenue service that 39
pertain to the deducting and withholding of income tax. The 40
director shall adopt rules establishing priorities for the 41

deduction and withholding of federal income tax amounts under 42
division (B) of this section. 43

(D) ~~Amounts~~ Federal income tax deducted and withheld 44
pursuant to division (B) of this section shall remain in the 45
unemployment compensation fund until transferred to the internal 46
revenue service as a payment of income tax. 47

Sec. 5701.11. The effective date to which this section 48
refers is the effective date of this section as amended by ~~H.B.~~ 49
~~197-S.B. 18~~ of the ~~133rd~~ 134th general assembly. 50

(A) (1) Except as provided under division (A) (2) or (B) of 51
this section, any reference in Title LVII of the Revised Code to 52
the Internal Revenue Code, to the Internal Revenue Code "as 53
amended," to other laws of the United States, or to other laws 54
of the United States, "as amended," means the Internal Revenue 55
Code or other laws of the United States as they exist on the 56
effective date. 57

(2) This section does not apply to any reference in Title 58
LVII of the Revised Code to the Internal Revenue Code as of a 59
date certain specifying the day, month, and year, or to other 60
laws of the United States as of a date certain specifying the 61
day, month, and year. 62

(B) (1) For purposes of applying section 5733.04, 5745.01, 63
or 5747.01 of the Revised Code to a taxpayer's taxable year 64
ending after ~~March 30, 2018~~ March 27, 2020, and before the 65
effective date, a taxpayer may irrevocably elect to incorporate 66
the provisions of the Internal Revenue Code or other laws of the 67
United States that are in effect for federal income tax purposes 68
for that taxable year if those provisions differ from the 69
provisions that, under division (A) of this section, would 70

otherwise apply. The filing by the taxpayer for that taxable 71
year of a report or return that incorporates the provisions of 72
the Internal Revenue Code or other laws of the United States 73
applicable for federal income tax purposes for that taxable 74
year, and that does not include any adjustments to reverse the 75
effects of any differences between those provisions and the 76
provisions that would otherwise apply, constitutes the making of 77
an irrevocable election under this division for that taxable 78
year. 79

(2) Elections under prior versions of division (B) (1) of 80
this section remain in effect for the taxable years to which 81
they apply. 82

Sec. 5733.41. The purpose of the tax imposed by this 83
section is to complement and to reinforce the tax imposed under 84
section 5733.06 of the Revised Code. 85

For the same purposes for which the tax is levied under 86
section 5733.06 of the Revised Code, there is hereby levied a 87
tax on every qualifying pass-through entity having at least one 88
qualifying investor that is not an individual. The tax imposed 89
by this section is imposed on the sum of the adjusted qualifying 90
amounts of the qualifying pass-through entity's qualifying 91
investors, that are ~~not neither~~ individuals as follows: for 92
~~qualifying investors nor~~ subject to division (G) (2) of section 93
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 94
~~for the entity's taxable year ending in 2005, at five and one~~ 95
~~tenth per cent for the entity's taxable year ending in 2006, at~~ 96
~~three and four tenths per cent for the entity's taxable year~~ 97
~~ending in 2007, at one and seven tenths per cent for the~~ 98
~~entity's taxable year ending in 2008, and at zero per cent for~~ 99
~~the entity's taxable year ending in 2009 or in subsequent years;~~ 100

~~and for all other qualifying investors that are not individuals,~~ 101
~~at the a rate of eight and one-half per cent equal to the tax~~ 102
~~rate imposed on taxable business income under division (A) (4) (a)~~ 103
~~of section 5747.02 of the Revised Code.~~ 104

The tax imposed by this section applies only if the 105
qualifying entity has nexus with this state under the 106
Constitution of the United States for any portion of the 107
qualifying entity's qualifying taxable year, and the sum of the 108
qualifying entity's adjusted qualifying amounts exceeds one 109
thousand dollars for the qualifying entity's qualifying taxable 110
year. This section does not apply to a pass-through entity if 111
all of the partners, shareholders, members, or investors of the 112
pass-through entity are taxpayers for the purposes of section 113
5733.04 of the Revised Code without regard to section 5733.09 of 114
the Revised Code for the entire qualifying taxable year of the 115
pass-through entity. 116

If, prior to the due date of the return, a qualifying 117
pass-through entity receives from an investor a written 118
representation, under penalties of perjury, that the investor is 119
described in division (I) (1), (2), (6), (7), (8), or (9) of 120
section 5733.40 of the Revised Code for the qualifying pass- 121
through entity's entire qualifying taxable year, the qualifying 122
pass-through entity is not required to withhold or pay the taxes 123
or estimated taxes imposed under this section or sections 124
5747.41 to 5747.453 of the Revised Code with respect to that 125
investor for that qualifying taxable year, and is not subject to 126
any interest or interest penalties for failure to withhold or 127
pay those taxes or estimated taxes with respect to that investor 128
for that qualifying taxable year. 129

If, prior to the due date of the return, a qualifying 130

trust receives from a beneficiary of that trust a written 131
representation, under penalties of perjury, that the beneficiary 132
is a resident taxpayer for the purposes of Chapter 5747. of the 133
Revised Code for the qualifying trust's entire qualifying 134
taxable year, the qualifying trust is not required to withhold 135
or pay the taxes or estimated taxes imposed under this section 136
or sections 5747.41 to 5747.453 of the Revised Code with respect 137
to that beneficiary for that qualifying taxable year, and is not 138
subject to any interest or interest penalties for failure to 139
withhold or pay those taxes or estimated taxes with respect to 140
that beneficiary for that qualifying taxable year. 141

The tax commissioner may adopt rules for the purpose of 142
the tax levied by this section or section 5747.41 of the Revised 143
Code, including a rule defining "qualifying investor" or 144
"qualifying beneficiary," and a rule requiring or permitting a 145
qualifying entity to combine its income with related members and 146
to pay the tax and estimated tax on a combined basis. 147

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 148
Revised Code apply to a qualifying entity subject to the tax 149
imposed under this section. 150

The levy of the tax under this section does not prevent a 151
municipal corporation or a joint economic development district 152
created under section 715.70, 715.71, or 715.72 of the Revised 153
Code from levying a tax on income. 154

Sec. 5747.065. (A) If a taxpayer has elected under section 155
4141.321 of the Revised Code to have the director of job and 156
family services deduct and withhold state income tax from the 157
unemployment compensation benefits payable to the taxpayer, the 158
director shall deduct and withhold such tax at the rate or rates 159
that the director shall prescribe in consultation with the tax 160

commissioner. 161

(B) (1) The director of job and family services shall file 162
returns and pay the amounts withheld in accordance with the 163
requirements of section 5747.07 of the Revised Code. 164

(2) Annually, on or before the thirty-first day of 165
January, the director shall issue an information return to each 166
taxpayer with respect to whom an amount has been deducted and 167
withheld under this section during the preceding calendar year. 168
The information return shall show the total amount deducted from 169
the taxpayer's unemployment compensation benefits during the 170
preceding calendar year and any other information the tax 171
commissioner requires. If the director is required under the 172
Internal Revenue Code to report federal income tax deducted and 173
withheld from unemployment compensation benefits, then the 174
director may report the information required under this section 175
on that report, as authorized by the Internal Revenue Code. 176

(C) Amounts deducted and withheld under this section shall 177
be allowed as a credit against payment of the tax imposed by 178
this chapter and shall be treated as taxes paid for purposes of 179
section 5747.09 of the Revised Code. This division applies only 180
to the person for whom the amount is deducted and withheld. 181

(D) Failure of the director to deduct and withhold the 182
required amounts from unemployment compensation benefits or to 183
remit amounts withheld as required by this section does not 184
relieve a taxpayer from liability for the tax imposed by section 185
5747.02 of the Revised Code. 186

(E) The director of job and family services may adopt 187
rules as necessary to administer this section. 188

Sec. 5747.41. For the same purposes for which the tax is 189

levied under section 5747.02 of the Revised Code, there is 190
hereby levied a withholding tax on every qualifying pass-through 191
entity having at least one qualifying investor who is an 192
individual and on every qualifying trust having at least one 193
qualifying beneficiary who is an individual. The withholding tax 194
imposed by this section is imposed on the sum of the adjusted 195
qualifying amounts of a qualifying pass-through entity's 196
qualifying investors who are individuals and on the sum of the 197
adjusted qualifying amounts of a qualifying trust's qualifying 198
beneficiaries, at the a rate of five per cent of that sum equal 199
to the tax rate imposed on taxable business income under 200
division (A) (4) (a) of section 5747.02 of the Revised Code. 201

The tax imposed by this section applies only if the 202
qualifying entity has nexus with this state under the 203
Constitution of the United States for any portion of the 204
qualifying entity's qualifying taxable year, and the sum of the 205
qualifying entity's adjusted qualifying amounts exceeds one 206
thousand dollars for the qualifying entity's qualifying taxable 207
year. 208

Section 2. That existing sections 4141.321, 5701.11, 209
5733.41, and 5747.41 of the Revised Code are hereby repealed. 210

Section 3. That Section 36 of H.B. 481 of the 133rd 211
General Assembly be amended to read as follows: 212

Sec. 36. Notwithstanding any provision of Chapter 5751. of 213
the Revised Code to the contrary, "gross receipts," as defined 214
in section 5751.01 of the Revised Code, excludes receipts from 215
any forgiven indebtedness that is excluded from the gross income 216
of the taxpayer for federal income tax purposes pursuant to 217
section 1106(i) of the "Coronavirus Aid, Relief, and Economic 218
Security (CARES) Act," 15 U.S.C.—~~9005(i)~~ 636m, or section 276 of 219

the "Consolidated Appropriations Act, 2021," 15 U.S.C. 636m. 220

Section 4. That existing Section 36 of H.B. 481 of the 221
133rd General Assembly is hereby repealed. 222

Section 5. Notwithstanding any provision of Chapter 5747. 223
of the Revised Code to the contrary, the Tax Commissioner may 224
temporarily waive any interest, penalty, or interest penalty 225
imposed under that chapter on an underpayment of tax imposed 226
under that chapter or Chapter 5748. of the Revised Code due with 227
respect to unemployment compensation received by the taxpayer on 228
or after January 1, 2020, but before January 1, 2021, provided 229
the taxpayer timely files an annual return required under 230
section 5747.08 of the Revised Code for the taxpayer's taxable 231
year ending in 2020. A taxpayer that has paid any interest, 232
penalty, or interest penalty on such an underpayment may apply 233
for a refund of the interest, penalty, or interest penalty paid 234
under section 5747.11 of the Revised Code. If such an 235
underpayment is not paid before July 1, 2023, interest shall be 236
imposed on the underpayment in accordance with division (G) of 237
section 5747.08 of the Revised Code and penalties and interest 238
penalties shall be assessed on such an underpayment in 239
accordance with Chapter 5747. of the Revised Code from the time 240
that underpayment would have been due without extension in the 241
absence of the temporary waiver authorized under this section, 242
and no refund of such interest, penalty, or interest penalty may 243
be granted under this section. This section does not prohibit 244
the Commissioner from abating any such penalty or interest 245
penalty under division (C) of section 5747.15 of the Revised 246
Code. 247

Terms used in this section have the same meanings as in 248
section 5747.01 of the Revised Code. 249

Section 6. Notwithstanding any provision of Chapter 5751. 250
of the Revised Code to the contrary, "gross receipts," as 251
defined in section 5751.01 of the Revised Code, excludes any 252
amount of excess surplus of the state insurance fund received by 253
a taxpayer from the Ohio Bureau of Workers' Compensation 254
pursuant to rules adopted under section 4123.321 of the Revised 255
Code on or after January 1, 2020, and before January 1, 2022. 256

Section 7. The amendment by this act of sections 5733.41 257
and 5747.41 of the Revised Code applies to qualifying taxable 258
years beginning on and after January 1, 2023. 259

Section 8. The election authorized under section 4141.321 260
of the Revised Code to withhold state income taxes applies to 261
unemployment compensation benefits paid on or after January 1, 262
2022. 263

On or before December 1, 2021, the Director of Job and 264
Family Services shall notify each individual that was receiving 265
on that date, and that continues to receive, unemployment 266
compensation benefits and that made an election under division 267
(B) of that section with respect to federal income tax that the 268
individual may elect to have state income tax withheld from 269
those benefits for benefits paid on or after January 1, 2022, in 270
accordance with that division. Such an election is not a change 271
in withholding status for the purpose of division (A) (4) of that 272
section. 273

Section 9. This act is hereby declared to be an emergency 274
measure necessary for the immediate preservation of the public 275
peace, health, and safety. The reason for such necessity is to 276
enable taxpayers to avoid making miscellaneous adjustments on 277
their 2020 tax returns that increase costs of compliance. 278
Therefore, this act shall go into immediate effect. 279