As Introduced

133rd General Assembly
Regular Session H. B. No. 222
2019-2020

Representatives Stoltzfus, Howse
Cosponsors: Representatives Antani, Becker, Brent, Crawley, Cross, Jones, Lightbody, Manchester, Riedel, Seitz, Smith, K., Upchurch, Vitale, West

A BILL

To amend sections 5747.02 and 5747.98 and to enact sections 122.91 and 5747.82 of the Revised Code to authorize an income tax credit for an employer's expenses to train a commercial vehicle operator.

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

Section 1. That sections 5747.02 and 5747.98 be amended and sections 122.91 and 5747.82 of the Revised Code be enacted to read as follows:

Sec. 122.91. (A) As used in this section:

(1) "Qualifying individual" means an individual who holds a valid commercial driver's license or who is eligible to obtain such a license.

(2) "Commercial driver's license" and "commercial motor vehicle" have the same meanings as in section 4506.01 of the Revised Code.

(3) "Training expense" means any cost customarily incurred...
by an employer to train an employee who is a qualifying individual to obtain a commercial driver's license or to operate a commercial motor vehicle. "Training expense" shall not include such an employee's wages.

(4) "Tax credit-eligible training expense" means any training expense certified under division (B) of this section.

(5) "Director" means the director of development services.

(B)(1) On or before the first day of December, an employer may apply to the director, on a form prescribed by the director, to certify training expenses that an employer estimates the employer will incur during the following calendar year as tax credit-eligible training expenses. Within thirty days after receiving such an application, the director shall certify to each applicant the amount of the applicant's submitted expenses the director finds to be tax credit-eligible training expenses. The director shall not certify more than fifty thousand dollars of training expenses per year as tax credit-eligible training expenses for any employer.

(2) The director shall not certify more than three million dollars in tax credit-eligible training expenses for each calendar year, increased by the sum of tax credit-eligible expenses the director was authorized to certify within the limit described in division (B)(2) of this section for preceding years that were not the basis of a tax credit certificate issued under division (C)(2) of this section in the current year or any preceding year.

(C)(1) An employer that incurs tax credit-eligible training expenses in a calendar year that were certified for that year under division (B) of this section may apply to the
director for a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code. The credit shall equal one-half of the tax credit-eligible training expenses actually incurred by the employer in, and certified for, the preceding calendar year. The application may be submitted after the first day and before the twenty-first day of January of the year following the year for which the director certified the expenses. The application shall be submitted on a form prescribed by the director.

(2) If the director approves an application described in division (C)(1) of this section, the director, within fifteen days after receipt of the application, shall issue a tax credit certificate to the applicant. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the tax credit-eligible training expenses on which the credit is based, the amount of the credit, and the date the certificate is issued. Upon issuance of a certificate, the director shall certify to the tax commissioner the name of the applicant, the amount of tax credit-eligible training expenses stated on the certificate, and any other information required by the rules adopted under this section.

(D) The director in consultation with the tax commissioner shall adopt rules under Chapter 119. of the Revised Code for the administration of this section. Such rules shall set forth the types of expenses that qualify as training expenses for purposes of this section.
Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured as prescribed in divisions (A)(1) to (4) of this section.

(1) In the case of trusts, the tax imposed by this section shall be measured by modified Ohio taxable income under division (D) of this section and levied in the same amount as the tax is imposed on estates as prescribed in division (A)(2) of this section.

(2) In the case of estates, the tax imposed by this section shall be measured by Ohio taxable income and levied at the rate of seven thousand four hundred twenty-five ten-thousandths per cent for the first ten thousand five hundred dollars of such income and, for income in excess of that amount, at the same rates prescribed in division (A)(3) of this section for individuals.

(3) In the case of individuals, for taxable years beginning in 2017 or thereafter, the tax imposed by this section on income other than taxable business income shall be measured by Ohio adjusted gross income, less taxable business income and
less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code. If the balance thus obtained is equal to or less than ten thousand five hundred dollars, no tax shall be imposed on that balance. If the balance thus obtained is greater than ten thousand five hundred dollars, the tax is hereby levied as follows:

<table>
<thead>
<tr>
<th>OHIO ADJUSTED GROSS</th>
<th>INCOME LESS TAXABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESS INCOME AND EXEMPTIONS (INDIVIDUALS)</td>
<td></td>
</tr>
<tr>
<td>OR</td>
<td></td>
</tr>
<tr>
<td>MODIFIED OHIO</td>
<td></td>
</tr>
<tr>
<td>TAXABLE INCOME (TRUSTS)</td>
<td></td>
</tr>
<tr>
<td>OR</td>
<td></td>
</tr>
<tr>
<td>OHIO TAXABLE INCOME (ESTATES)</td>
<td></td>
</tr>
</tbody>
</table>

- **More than $10,500 but not more than $15,800** in excess of $10,500: $77.96 plus 1.980% of the amount
- **More than $15,800 but not more than $21,100** in excess of $15,800: $182.90 plus 2.476% of the amount
- **More than $21,100 but not more than $42,100** in excess of $21,100: $314.13 plus 2.969% of the amount
- **More than $42,100 but not more than $84,200** in excess of $42,100: $937.62 plus 3.465% of the amount
- **More than $84,200 but not more than $105,300** in excess of $84,200: $2,396.39 plus 3.960% of the amount
- **More than $105,300 but not more than $210,600** in excess of $105,300: $3,231.95 plus 4.597% of the amount
More than $210,600

$8,072.59 plus 4.997% of the amount in excess of $210,600

(4)(a) In the case of individuals, for taxable years beginning in 2016 or thereafter, the tax imposed by this section on taxable business income shall equal three per cent of the result obtained by subtracting any amount allowed under division (A)(4)(b) of this section from the individual's taxable business income.

(b) If the exemptions allowed to an individual under division (A)(3) of this section exceed the taxpayer's Ohio adjusted gross income less taxable business income, the excess shall be deducted from taxable business income before computing the tax under division (A)(4)(a) of this section.

(5) Except as otherwise provided in this division, in August of each year, the tax commissioner shall make a new adjustment to the income amounts prescribed in divisions (A)(2) and (3) of this section by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the new adjustment of the income amounts. To recompute the tax dollar amount corresponding to the lowest tax rate in division (A)(3) of this section, the commissioner shall multiply the tax rate prescribed in division (A)(2) of this section by the income amount specified in that division and as
adjusted according to this paragraph. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made and to taxable years beginning in each ensuing calendar year until a calendar year in which a new adjustment is made pursuant to this division. The tax commissioner shall not make a new adjustment in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under divisions (A)(1) to (3) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002 or thereafter.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A resident trust may claim a credit against the tax computed under division (D) of this section equal to the lesser
of (a) the tax paid to another state or the District of Columbia on the resident trust's modified nonbusiness income, other than the portion of the resident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (b) the effective tax rate, based on modified Ohio taxable income, multiplied by the resident trust's modified nonbusiness income other than the portion of the resident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (9) and (A)(18)–(19) to (20)–(21) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to sections 4717.31 to 4717.38 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement
trusts and funds, and trusts exempted from taxation under section 501(a) of the Internal Revenue Code.

(F) Nothing in division (A)(3) of this section shall prohibit an individual with an Ohio adjusted gross income, less taxable business income and exemptions, of ten thousand five hundred dollars or less from filing a return under this chapter to receive a refund of taxes withheld or to claim any refundable credit allowed under this chapter.

Sec. 5747.82. There is allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that has been issued a tax credit certificate under section 122.91 of the Revised Code. The amount of the credit shall equal the credit amount stated on the certificate. The credit shall be claimed for the taxpayer's most recently concluded taxable year that ended before the issuance date stated on the certificate.

The credit shall be claimed in the order required under section 5747.98 of the Revised Code. Any credit amount in excess of the aggregate amount of tax due under section 5747.02 of the Revised Code, after allowing for any other credits preceding the credit in that order, may be carried forward for five taxable years, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year.

Nothing in this section limits or disallows pass-through treatment of the credit if the credit certificate has been issued to a pass-through entity.

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

(1) Either the retirement income credit under division (B) of section 5747.055 of the Revised Code or the lump sum retirement income credits under divisions (C), (D), and (E) of that section;

(2) 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;

(3) The dependent care credit under section 5747.054 of the Revised Code;

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

(5) The campaign contribution credit under section 5747.29 of the Revised Code;

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

(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(8) The earned income credit under section 5747.71 of the Revised Code;

(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(11) The enterprise zone credit under section 5709.66 of the Revised Code;
(12) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(13) The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;

(14) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(14) The small business investment credit under section 5747.81 of the Revised Code;

(15) The enterprise zone credits under section 5709.65 of the Revised Code;

(16) The research and development credit under section 5747.331 of the Revised Code;

(17) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(18) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(19) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(20) The refundable motion picture production credit under section 5747.66 of the Revised Code;

(21) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(23) The refundable credits for taxes paid by a
qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;

(24)–(25) 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;

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

(26)–(27) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.

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

Section 2. That existing sections 5747.02 and 5747.98 of the Revised Code are hereby repealed.

Section 3. (A) The amendment or enactment by this act of sections 122.91, 5747.82, and 5747.98 of the Revised Code applies to training expenses, as that term is defined under section 122.91 of the Revised Code, estimated to be incurred on or after January 1, 2020.
(B) In adopting the rules required under division (D) of section 122.91 of the Revised Code, as enacted by this act, the Director of Development Services shall file the notice and text of the proposed rules as required by division (B) of section 119.03 of the Revised Code not later than one hundred fifty days after the effective date of this section.