As Introduced

133rd General Assembly
Regular Session
2019-2020

H. B. No. 228

Representative Schaffer
Cosponsors: Representatives Brent, Vitale, Becker, Stoltzfus, Manning, D., Plummer, Riedel, O’Brien, Carfagna, Romanchuk, Cross

A BILL

To amend sections 5747.02, 5747.08, and 5747.98 and to enact section 5747.64 of the Revised Code to allow an income tax credit for law enforcement officials who purchase safety or protective items to be used in the course of official law enforcement activities.

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

Section 1. That sections 5747.02, 5747.08, and 5747.98 be amended and section 5747.64 of the Revised Code be enacted to read as follows:

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>
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<tbody>
<tr>
<td>INCOME LESS TAXABLE</td>
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BUSINESS INCOME AND EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO

TAXABLE INCOME (TRUSTS)

OR

OHIO TAXABLE INCOME (ESTATES) TAX

More than $10,500 but $77.96 plus 1.980% of the amount
not more than $15,800 in excess of $10,500

More than $15,800 but $182.90 plus 2.476% of the amount
not more than $21,100 in excess of $15,800

More than $21,100 but $314.13 plus 2.969% of the amount
not more than $42,100 in excess of $21,100

More than $42,100 but $937.62 plus 3.465% of the amount
not more than $84,200 in excess of $42,100

More than $84,200 but $2,396.39 plus 3.960% of the amount
not more than $105,300 in excess of $84,200

More than $105,300 but $3,231.95 plus 4.597% of the amount
not more than $210,600 in excess of $105,300

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 (10) and (A)(18) to (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. 5747.08. 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.

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of
those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return in full payment of the tax due, as shown on the single return, for such investors, other than investors who are persons subject to the tax imposed under section 5733.06 of the Revised Code.

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

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

(c) Nothing in division (D) of this section precludes the tax commissioner from requiring such investors to file the return and make the payment of taxes and related interest, penalty, and interest penalty required by this section or section 5747.02, 5747.09, or 5747.15 of the Revised Code.
Nothing in division (D) of this section precludes such an investor from filing the annual return under this section, utilizing the refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor under division (I) of this section, and making the payment of taxes imposed under section 5747.02 of the Revised Code. Nothing in division (D) of this section shall be construed to provide to such an investor or pass-through entity any additional deduction or credit, other than the credit provided by division (I) of this section, solely on account of the entity's filing a return in accordance with this section. Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of the pass-through entity investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code.

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

(a) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
(b) The senior citizen credit under division (F) of section 5747.055 of the Revised Code;
(c) The lump sum distribution credit under division (G) of section 5747.055 of the Revised Code;
(d) The dependent care credit under section 5747.054 of the Revised Code;
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
(f) The lump sum retirement income credit under division.
(D) of section 5747.055 of the Revised Code;

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

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

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

(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;

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

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

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

(n) The credit for law enforcement officer purchases under section 5747.64 of the Revised Code.

(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.

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

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

If either spouse is not required to file a federal income
tax return and either or both are required to file a return
pursuant to this chapter, they may elect to file separate or
joint returns, and, pursuant to that election, their liabilities
are separate or joint and several. If a husband and wife file
separate returns pursuant to this chapter, each must claim the
taxpayer's own exemption, but not both, as authorized under
section 5747.02 of the Revised Code on the taxpayer's own
(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

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

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

If the commissioner considers it necessary in order to
ensure the payment of the tax imposed by section 5747.02 of the
Revised Code or any tax imposed under Chapter 5748. of the
Revised Code, the commissioner may require returns and payments
to be made otherwise than as provided in this section.

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

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

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

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

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

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

Sec. 5747.64. (A) As used in this section, "law enforcement officer" means a sheriff, deputy sheriff, constable, municipal police officer, police officer of a township or joint township police district, marshal, deputy marshal, or state highway patrolman, and also means any officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, the authority to arrest violators is conferred, when the officer, agent, or employee is acting within the limits of statutory authority.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for amounts spent by a law enforcement officer during the taxable year on items used by that officer to ensure the officer's safety or protection while performing official law enforcement activities. The amount of the credit shall not exceed five hundred dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

The tax commissioner may request that a law enforcement officer or retired law enforcement officer claiming a credit under this section furnish information as is necessary to support the claim for the credit under this section, and no credit shall be allowed unless the requested information is provided.

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 law enforcement officer purchases under section 5747.64 of the Revised Code;

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

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

(12) The enterprise zone credit under section 5709.66
of the Revised Code;

(12)—(13) The ethanol plant investment credit under section 5747.75 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

(23)—(24) 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
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, 5747.08, and
5747.98 of the Revised Code are hereby repealed.

Section 3. The amendment or enactment by this act of
sections 5747.02, 5747.08, 5747.64, and 5747.98 of the Revised
Code applies to taxable years beginning on or after January 1,
2019.