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Representative Scherer

Cosponsors: Representatives Hambley, Retherford, Anielski, Antani, Brown, Faber, Galonski, Ginter, Goodman, Greenspan, Henne, Householder, Hughes, Lang, Patton, Reineke, Riedel, Roegner, Rogers, Ryan, Schaffer, Seitz, Smith, R., Sprague, Sweeney, Thompson

A BILL

To amend section 5747.24 of the Revised Code to 1
modify the test for determining an individual's 2
state of residence for income tax purposes. 3

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

Section 1. That section 5747.24 of the Revised Code be 4
amended to read as follows: 5

Sec. 5747.24. This section is to be applied solely for the 6
purposes of Chapters 5747. and 5748. of the Revised Code. 7

(A) As used in this section: 8

(1) An individual "has one contact period in this state" 9
if the individual is away overnight from the individual's abode 10
located outside this state and while away overnight from that 11
abode spends at least some portion, however minimal, of each of 12
two consecutive days in this state. 13

(2) An individual is considered to be "away overnight from 14
the individual's abode located outside this state" if the 15

individual is away from the individual's abode located outside 16
this state for a continuous period of time, however minimal, 17
beginning at any time on one day and ending at any time on the 18
next day. 19

(B) (1) Except as provided in division (B) ~~(2)~~ (4) of this 20
section, an individual ~~who during a~~ is presumed to be not 21
domiciled in this state for the entirety of any taxable year for 22
which the individual files a statement with the tax commissioner 23
under division (B) (2) of this section and meets all of the 24
following requirements: 25

(a) The individual has no more than two hundred twelve 26
contact periods in this state, which need not be consecutive, 27
~~and who during the taxable year.~~ 28

(b) The individual, during the entire taxable year, has at 29
least one abode outside this state, ~~is presumed to be not~~ 30
~~domiciled in this state during the taxable year if, on for which~~ 31
the individual did not claim a depreciation deduction under 32
section 167 of the Internal Revenue Code on the individual's 33
federal income tax return for the taxable year. 34

(c) The individual did not hold a valid Ohio driver's 35
license or identification card at any time during the taxable 36
year. An individual shall not be deemed to have held a valid 37
Ohio driver's license or identification card for the purposes of 38
this division if, before the beginning of the taxable year, the 39
individual surrendered the license or card to the bureau of 40
motor vehicles or to the motor vehicle licensing authority of a 41
jurisdiction outside this state. As used in division (B) (1) (c) 42
of this section, "driver's license" and "identification card" 43
have the same meanings as in section 4507.01 of the Revised 44
Code. 45

(d) The individual did not receive a reduction in real property taxes under section 323.152 of the Revised Code or a reduction in manufactured home taxes under section 4503.065 of the Revised Code, based on the individual's occupation of an abode in this state, for a property tax year the tax lien date of which is included in the taxable year. 46
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(e) If the individual attended or was enrolled in a state institution of higher education, as defined in section 3345.011 of the Revised Code, in this state at any time during the taxable year, the amount of tuition charged or incurred for such attendance or enrollment was not based on an abode being located in this state. 52
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(2) On or before the fifteenth day of the ~~fourth-tenth~~ month following the close of the taxable year, ~~the an~~ individual ~~files that meets the requirements prescribed by division (B)(1) of this section may file~~ with the tax commissioner, on the form prescribed by the commissioner, a statement from the individual verifying that the individual ~~was not domiciled in this state under this division during the taxable year~~ meets such requirements. In the statement, the individual shall verify both of the following:- 58
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~~(a) During the entire taxable year, the individual was not domiciled in this state;-~~ 67
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~~(b) During the entire taxable year, the individual had at least one abode outside this state. The individual shall specify in the statement the location of each such abode outside this state.-~~ 69
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~~The presumption that the individual was not domiciled in this state is irrebuttable unless the individual fails to timely-~~ 73
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~~file the statement as required or makes a false statement. If~~ 75
~~the individual fails to file the statement as required or makes~~ 76
~~a false statement, the individual is presumed under division (C)~~ 77
~~of this section to have been domiciled in this state the entire~~ 78
~~taxable year.~~ 79

In the case of an individual who dies before the statement 80
would otherwise be due, the personal representative of the 81
estate of the deceased individual may comply with this division 82
by making to the best of the representative's knowledge and 83
belief the statement ~~under division (B) (1) of this section~~ with 84
respect to the deceased individual, and filing the statement 85
with the commissioner within the later of the date the statement 86
would otherwise be due or sixty days after the date of the 87
individual's death. 88

An individual or personal representative of an estate who 89
knowingly makes a false statement under this division ~~(B) (1) of~~ 90
~~this section~~ is guilty of perjury under section 2921.11 of the 91
Revised Code. 92

~~(2)-(3)~~ The presumption that the individual was not 93
domiciled in this state is irrebuttable unless the statement 94
filed under division (B) (2) of this section is false with 95
respect to the requirements prescribed by division (B) (1) of 96
this section. If the individual or personal representative of an 97
estate fails to file such a statement or the statement is false, 98
the individual is presumed under division (C) or (D) of this 99
section to have been domiciled in this state the entire taxable 100
year. 101

(4) Division (B) of this section does not apply to an 102
individual ~~changing whose domicile from or with respect~~ to this 103
state changes during the taxable year. Such an individual is 104

domiciled in this state for that portion of the taxable year 105
before or after the change, as applicable. 106

(C) An individual who during a taxable year has fewer than 107
two hundred thirteen contact periods in this state, which need 108
not be consecutive, who has an abode in this state at any time 109
during that taxable year, and who is not irrebuttably presumed 110
under division (B) of this section to be not domiciled in this 111
state with respect to that taxable year, is presumed to be 112
domiciled in this state for the entire taxable year, except as 113
provided in division (B) ~~(2)~~ (4) of this section. An individual 114
can rebut this presumption for any portion of the taxable year 115
only with a preponderance of the evidence to the contrary. An 116
individual who rebuts the presumption under this division for 117
any portion of the taxable year is presumed to be domiciled in 118
this state for the remainder of the taxable year for which the 119
individual does not provide a preponderance of the evidence to 120
the contrary. 121

(D) An individual who during a taxable year has at least 122
two hundred thirteen contact periods in this state, which need 123
not be consecutive, and who has an abode in this state at any 124
time during that taxable year is presumed to be domiciled in 125
this state for the entire taxable year, except as provided in 126
division (B) ~~(2)~~ (4) of this section. An individual can rebut 127
this presumption for any portion of the taxable year only with 128
clear and convincing evidence to the contrary. An individual who 129
rebuts the presumption under this division for any portion of 130
the taxable year is presumed to be domiciled in this state for 131
the remainder of the taxable year for which the individual does 132
not provide clear and convincing evidence to the contrary. 133

(E) If the tax commissioner challenges the number of 134

contact periods an individual claims to have in this state 135
during a taxable year, the individual bears the burden of proof 136
to verify such number, by a preponderance of the evidence. An 137
individual challenged by the commissioner is presumed to have a 138
contact period in this state for any period for which the 139
individual does not prove by a preponderance of the evidence 140
that the individual had no such contact period. 141

Section 2. That existing section 5747.24 of the Revised 142
Code is hereby repealed. 143

Section 3. The amendment by this act of section 5747.24 of 144
the Revised Code applies to taxable years beginning on or after 145
January 1, 2018. 146