

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 467**

**Representative Scherer**

**Cosponsors: Representatives Romanchuk, Riedel, Lang, Seitz, Lipps, Becker**

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**A BILL**

To amend sections 5733.41 and 5747.41 of the 1  
Revised Code to reduce the pass-through entity 2  
withholding tax rate to four per cent. 3

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

**Section 1.** That sections 5733.41 and 5747.41 of the 4  
Revised Code be amended to read as follows: 5

**Sec. 5733.41.** The purpose of the tax imposed by this 6  
section is to complement and to reinforce the tax imposed under 7  
section 5733.06 of the Revised Code. 8

For the same purposes for which the tax is levied under 9  
section 5733.06 of the Revised Code, there is hereby levied a 10  
tax on every qualifying pass-through entity having at least one 11  
qualifying investor that is not an individual. The tax imposed 12  
by this section is imposed on the sum of the adjusted qualifying 13  
amounts of the qualifying pass-through entity's qualifying 14  
investors that are not individuals ~~as follows: for or are not~~ 15  
qualifying investors subject to division (G) (2) of section 16  
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 17  
~~for the entity's taxable year ending in 2005, at five and one~~ 18

~~tenth per cent for the entity's taxable year ending in 2006, at 19  
three and four tenths per cent for the entity's taxable year 20  
ending in 2007, at one and seven tenths per cent for the 21  
entity's taxable year ending in 2008, and at zero per cent for 22  
the entity's taxable year ending in 2009 or in subsequent years, 23  
and for all other qualifying investors that are not individuals, 24  
at the rate of ~~eight and one half~~ four per cent. 25~~

The tax imposed by this section applies only if the 26  
qualifying entity has nexus with this state under the 27  
Constitution of the United States for any portion of the 28  
qualifying entity's qualifying taxable year, and the sum of the 29  
qualifying entity's adjusted qualifying amounts exceeds one 30  
thousand dollars for the qualifying entity's qualifying taxable 31  
year. This section does not apply to a pass-through entity if 32  
all of the partners, shareholders, members, or investors of the 33  
pass-through entity are taxpayers for the purposes of section 34  
5733.04 of the Revised Code without regard to section 5733.09 of 35  
the Revised Code for the entire qualifying taxable year of the 36  
pass-through entity. 37

If, prior to the due date of the return, a qualifying 38  
pass-through entity receives from an investor a written 39  
representation, under penalties of perjury, that the investor is 40  
described in division (I) (1), (2), (6), (7), (8), or (9) of 41  
section 5733.40 of the Revised Code for the qualifying pass- 42  
through entity's entire qualifying taxable year, the qualifying 43  
pass-through entity is not required to withhold or pay the taxes 44  
or estimated taxes imposed under this section or sections 45  
5747.41 to 5747.453 of the Revised Code with respect to that 46  
investor for that qualifying taxable year, and is not subject to 47  
any interest or interest penalties for failure to withhold or 48  
pay those taxes or estimated taxes with respect to that investor 49

for that qualifying taxable year. 50

If, prior to the due date of the return, a qualifying 51  
trust receives from a beneficiary of that trust a written 52  
representation, under penalties of perjury, that the beneficiary 53  
is a resident taxpayer for the purposes of Chapter 5747. of the 54  
Revised Code for the qualifying trust's entire qualifying 55  
taxable year, the qualifying trust is not required to withhold 56  
or pay the taxes or estimated taxes imposed under this section 57  
or sections 5747.41 to 5747.453 of the Revised Code with respect 58  
to that beneficiary for that qualifying taxable year, and is not 59  
subject to any interest or interest penalties for failure to 60  
withhold or pay those taxes or estimated taxes with respect to 61  
that beneficiary for that qualifying taxable year. 62

The tax commissioner may adopt rules for the purpose of 63  
the tax levied by this section or section 5747.41 of the Revised 64  
Code, including a rule defining "qualifying investor" or 65  
"qualifying beneficiary," and a rule requiring or permitting a 66  
qualifying entity to combine its income with related members and 67  
to pay the tax and estimated tax on a combined basis. 68

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 69  
Revised Code apply to a qualifying entity subject to the tax 70  
imposed under this section. 71

The levy of the tax under this section does not prevent a 72  
municipal corporation or a joint economic development district 73  
created under section 715.70, 715.71, or 715.72 of the Revised 74  
Code from levying a tax on income. 75

**Sec. 5747.41.** For the same purposes for which the tax is 76  
levied under section 5747.02 of the Revised Code, there is 77  
hereby levied a withholding tax on every qualifying pass-through 78

entity having at least one qualifying investor who is an 79  
individual and on every qualifying trust having at least one 80  
qualifying beneficiary who is an individual. The withholding tax 81  
imposed by this section is imposed on the sum of the adjusted 82  
qualifying amounts of a qualifying pass-through entity's 83  
qualifying investors who are individuals and on the sum of the 84  
adjusted qualifying amounts of a qualifying trust's qualifying 85  
beneficiaries, at the rate of ~~five~~four per cent of that sum. 86

The tax imposed by this section applies only if the 87  
qualifying entity has nexus with this state under the 88  
Constitution of the United States for any portion of the 89  
qualifying entity's qualifying taxable year, and the sum of the 90  
qualifying entity's adjusted qualifying amounts exceeds one 91  
thousand dollars for the qualifying entity's qualifying taxable 92  
year. 93

The levy of the tax under this section does not prevent a 94  
municipal corporation or a joint economic development district 95  
created under section 715.70, 715.71, or 715.72 of the Revised 96  
Code from levying a tax on income. 97

**Section 2.** That existing sections 5733.41 and 5747.41 of 98  
the Revised Code are hereby repealed. 99

**Section 3.** The amendment by this act of sections 5733.41 100  
and 5747.41 of the Revised Code applies to qualifying taxable 101  
years ending on or after the effective date of this section. 102