

AN ACT

To amend sections 3770.07, 3770.072, 5733.051, 5733.98, 5747.062, 5747.20, and 5747.98 and to enact sections 3770.10 to 3770.14 of the Revised Code to permit the transfer of a lottery prize award upon the prior approval of a court and to establish procedures for application for such approval.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3770.07, 3770.072, 5733.051, 5733.98, 5747.062, 5747.20, and 5747.98 be amended and sections 3770.10, 3770.11, 3770.12, 3770.13, and 3770.14 of the Revised Code be enacted to read as follows:

Sec. 3770.07. (A)(1) Lottery prize awards shall be claimed by the holder of the winning lottery ticket, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning ticket, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which such prize award was announced if the lottery game is an on-line game, and within one hundred eighty days after the close of the game if the lottery game is an instant game. Except as otherwise provided in division (B) of this section, if no valid claim to the prize award is made within the prescribed period, the prize money or the cost of goods and services awarded as prizes, or if such goods or services are resold by the commission, the proceeds from such sale, shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

(2) If a ~~person entitled to a prize award~~ prize winner, as defined in section 3770.10 of the Revised Code, is under eighteen years of age, or is under some other legal disability, and the prize money or the cost of goods or services awarded as a prize exceeds one thousand dollars, the director shall order that payment be made to the order of the legal guardian of ~~such winning ticket holder~~ that prize winner. If the amount of the prize money or the cost of goods or services awarded as a prize is one thousand dollars or less, the director may order that payment be made to the order of the adult

member, if any, of ~~such winning ticket holder's~~ that prize winner's family legally responsible for the care of ~~such winning person~~ that prize winner.

(3) No right of any ~~person~~ prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be the subject of a security interest or used as collateral.

(4)(a) No right of any ~~person~~ prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be assignable, or subject to garnishment, attachment, execution, withholding, or deduction, except as follows: as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code; when the payment is to be made to the executor or administrator or the trustee of a trust of the estate of a winning ticket holder; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; ~~or~~ when the director is to make a payment pursuant to section 3770.071 of the Revised Code; or as provided in sections 3770.10 to 3770.14 of the Revised Code.

(b) The commission shall adopt rules pursuant to section 3770.03 of the Revised Code concerning the payment of prize awards upon the death of a prize winner. Upon the death of a prize winner, as defined in section 3770.10 of the Revised Code, the remainder of the prize winner's prize award, to the extent it is not subject to a transfer agreement under sections 3770.10 to 3770.14 of the Revised Code, may be paid to the executor, administrator, or trustee in the form of a discounted lump sum cash settlement.

(5) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively coordinating and certifying commission drawings, or any blood relative or spouse of such officer or employee of the commission or auditor of state living as a member of such officer's or employee's household, nor shall any such employee, blood relative, or spouse attempt to claim a lottery prize award.

(6) The director may prohibit vendors to the commission and their employees from being awarded a lottery prize award.

(7) Upon the payment of prize awards pursuant to this section, the director and the commission are discharged from all further liability therefor.

(B) The commission may adopt rules governing the disbursement of unclaimed prize awards as all or part of the prize award in a lottery and may, pursuant to those rules, conduct the lottery and disburse any such unclaimed prize awards. Any lottery in which all or any part of the prize award is paid

from unclaimed prize awards shall be conducted in accordance with all of the other requirements of this chapter, including, but not limited to, the time and proof requirements for claiming awards and the disposition of unclaimed prize awards when the prescribed period for claiming the award has passed. A prize award or any part of a prize award that is paid from an unclaimed prize award shall not be reapplied toward the satisfaction of the requirement of division (A) of section 3770.06 of the Revised Code that at least fifty per cent of the total revenues from ticket sales be disbursed for monetary prize awards, if such unclaimed prize award was previously applied toward the satisfaction of that requirement. On or before the last day of January and July each year, the commission shall report to the general assembly the gross sales and net profits the commission obtained from the unclaimed prize awards in lotteries conducted pursuant to this division during the preceding two calendar quarters, including the amount of money produced by the games funded by the unclaimed prize awards and the total revenue accruing to the state from the prize award lotteries conducted pursuant to this division.

There is hereby established in the state treasury the unclaimed lottery prizes fund, to which all unclaimed prize awards shall be transferred. Any interest ~~which~~ that accrues on the amounts in the fund shall become a part of the fund and shall be subject to any rules adopted by the commission governing the disbursement of unclaimed prize awards.

Sec. 3770.072. (A) As used in this section, "prize winner," "transferee," and "transferor" have the same meanings as in section 3770.10 of the Revised Code.

(B) The state lottery commission shall deduct amounts from lottery prize awards and file returns in accordance with section 5747.062 of the Revised Code and any rules adopted by the tax commissioner pursuant to that section. This division also applies to lottery prize award payments the commission remits to transferees.

(C)(1) Each transferee shall deduct and withhold from each gross amount payable to each prize winner three and one-half per cent of the gross amount payable prior to making any other reduction required by this chapter.

(2) With respect to amounts deducted and withheld pursuant to division (C)(1) of this section, each transferee shall comply with divisions (A)(2) to (4) of section 5747.062 of the Revised Code.

(3) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the report and making the payment required by division (C) of this

section and section 5747.062 of the Revised Code, or an officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for failure to file the report or pay the amount due as required by division (C) of this section and section 5747.062 of the Revised Code. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay the amount due.

(4)(a) The tax commissioner may make an assessment against any person listed in division (C)(1) or (3) of this section for any deficiency for any period. Section 5747.13 of the Revised Code shall apply with respect to issuing assessments, filing petitions for reassessments, conducting hearings, issuing final determinations, making the assessment final, and filing the entry that makes the assessment final. Section 5717.02 of the Revised Code shall apply to appeals of the commissioner's final decision in connection with assessments issued pursuant to division (C)(4) of this section.

(b) An assessment issued against any person listed in division (C)(1) or (3) of this section shall not be considered an election of remedies or a bar to an assessment against any other person for the failure to comply with division (C)(1) of this section. No assessment shall be issued against any person who is so listed if the amount required to be withheld has been paid by another.

(c) The assessment shall include interest at the rate per annum prescribed by section 5703.47 of the Revised Code on liability from the time the payment is due until the date of assessment. Interest shall continue to accrue from the date of assessment until the date the assessment is paid in full. Any interest accruing subsequent to the date of the issuance of the assessment shall be considered to be an additional deficiency for which the tax commissioner may issue subsequent assessments. The initial assessment and any subsequent assessments may include a penalty in an amount not to exceed twice the applicable interest charged under this division.

Sec. 3770.10. As used in sections 3770.07 and 3770.10 to 3770.14 of the Revised Code:

(A) "Court of competent jurisdiction" means the probate court of the county in which the prize winner resides, or, if the prize winner is not a resident of this state, the probate court of Franklin county or a federal court having jurisdiction over the lottery prize award.

(B) "Discounted present value" means the present value of the future payments of a lottery prize award that is determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity as issued by the United States internal revenue service and assuming daily compounding.

(C) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser if all of the following apply:

(1) The prize winner has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award.

(2) The licensed professional adviser is not affiliated in any manner with or compensated in any manner by the transferee of the lottery prize award.

(3) The compensation of the licensed professional adviser is not affected by whether or not a transfer of a lottery prize award occurs.

(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award as a result of being any of the following:

(1) A person who is a claimant under division (A)(1) of section 3770.07 of the Revised Code;

(2) A person who is entitled to a prize award and who is under a legal disability as described in division (A)(2) of section 3770.07 of the Revised Code;

(3) A person who was awarded a prize award to which another has claimed title by a court order under division (A)(4)(a) of section 3770.07 of the Revised Code;

(4) A person who is receiving payments upon the death of a prize winner as provided in division (A)(4)(b) of section 3770.07 of the Revised Code.

(E) "Transfer" means any form of sale, assignment, or redirection of payment of all or any part of a lottery prize award for consideration.

(F) "Transfer agreement" means an agreement that is complete and valid, and that provides for the transfer of all or any part of a lottery prize award from a transferor to a transferee. A transfer agreement is incomplete and invalid unless the agreement contains both of the following:

(1) A statement, signed by the transferor under penalties of perjury, that the transferor irrevocably agrees that the transferor is subject to the tax imposed by Chapter 5733, or 5747, of the Revised Code with respect to gain or income which the transferor will recognize in connection with the transfer. If the transferor is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall

also sign under penalties of perjury a statement that the investor irrevocably agrees that the investor is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferor and the investor will recognize in connection with the transfer.

(2) A statement, signed by the transferee, that the transferee irrevocably agrees that the transferee is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee will recognize in connection with lottery prize awards to be received as a result of the transfer. If the transferee is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall also sign under penalties of perjury a statement setting forth that the investor irrevocably agrees that the investor is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee and the investor will recognize in connection with lottery prize awards to be received as a result of the transfer.

(G) "Transferee" means a party acquiring or proposing to acquire all or any part of a lottery prize award through a transfer.

(H) "Transferor" means either a prize winner or a transferee in an earlier transfer whose interest is acquired by or is sought to be acquired by a transferee or a new transferee through a transfer.

Sec. 3770.11. Prior to the date on which a prize winner becomes obligated under a transfer agreement, the transferee shall provide to the prize winner a disclosure statement, in boldface type of the minimum size of fourteen points, setting forth all of the following:

(A) The amounts and due dates of the lottery prize award payments that would be transferred under the transfer agreement;

(B) The aggregate amount of the lottery prize award payments described in division (A) of this section;

(C) The discounted present value of the lottery prize award payments described in division (A) of this section, calculated as of the date the disclosure statement is provided to the prize winner, and the amount of the applicable federal rate used in determining the discounted present value;

(D) The gross amount payable to the prize winner in exchange for or as consideration for the transfer of the lottery prize award payments described in division (A) of this section, including the annual rate of discount to present value used to determine the gross amount payable to the prize winner, assuming daily compounding and funding on the date of the transfer

agreement:

(E) An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees, and other commissions, fees, costs, expenses, and charges payable by the prize winner or deductible from the gross amount otherwise payable to the prize winner as described in division (D) of this section;

(F) The net amount payable to the prize winner after deduction from the gross amount payable to the prize winner as described in division (D) of this section of all commissions, fees, costs, expenses, and charges described in division (E) of this section;

(G)(1) The quotient, expressed as a percentage, obtained by dividing the net amount payable to the prize winner as described in division (F) of this section by the discounted present value of the payments described in division (C) of this section.

(2) Solely for purposes of division (G)(1) of this section, "net amount payable" does not include taxes required to be withheld under division (C)(1) of section 3770.072 of the Revised Code.

Sec. 3770.12. A court of competent jurisdiction may approve a transfer of a lottery prize award only in a final order that is based on the express findings of the court, and the express findings shall include all of the following:

(A) If the transferor is a prize winner, the transferee has provided to the prize winner a disclosure statement that complies with section 3770.11 of the Revised Code, and the prize winner has confirmed the prize winner's receipt of the disclosure statement, as evidenced by the prize winner's notarized signature on a copy of the disclosure statement.

(B) If the transferor is a prize winner, the prize winner has established that the transfer is fair and reasonable and in the best interests of the prize winner.

(C) If the transferor is a prize winner, the prize winner has received independent professional advice regarding the legal and other implications of the transfer.

(D) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the state lottery commission and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.

(E) The transferee is a trust, limited partnership, general partnership, corporation, professional association, limited liability company, or other entity that is qualified to do business in this state and meets the registration

requirements for that type of entity under Title XVII of the Revised Code.

(F) The transfer complies with all applicable requirements of the Revised Code and does not contravene any applicable law.

(G) The transfer does not include or cover the amounts of the lottery prize award that are required to be withheld or deducted pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3770.071, or 3770.072 of the Revised Code.

(H) Any amounts described in division (G) of this section that are required to be withheld or deducted, as of the date of the court order, will be offset by the commission first against remaining payments due the transferor and then against payments due the transferee.

(I) Except as provided in divisions (G) and (H) of this section, that the transferor's interest in each and all of the future payments from a particular lottery prize award is to be paid to a single transferee, or, if the payments from the lottery prize award are to be directed from the state lottery commission to multiple transferees, the commission has promulgated rules under section 3770.03 of the Revised Code permitting transfers to multiple transferees, and the transfer is consistent with those rules.

(J) If the lottery prize award has been transferred within twelve months immediately preceding the effective date of the proposed transfer, the state lottery commission has not objected to the proposed transfer. The court shall presume that the requirements of this division are met unless the commission notifies the court in writing before the hearing on the application for transfer, or through counsel at that hearing, that a transfer of the same lottery prize award has been made within that twelve-month period and that the commission objects to a subsequent transfer within that twelve-month period. The court shall find that the requirements of this division are not met if the commission provides notice of a prior transfer of the same lottery prize award within that twelve-month period and its objection to the proposed transfer, unless the transferor or transferee shows by clear and convincing evidence that no previous transfer of the same lottery prize award occurred within that twelve-month period.

Sec. 3770.13. (A) A transferee shall file an application under sections 3770.10 to 3770.14 of the Revised Code for the approval in advance of a transfer of a lottery prize award in a court of competent jurisdiction.

(B) The following procedures shall apply to an application for the approval in advance by a court of a transfer of a lottery prize award under division (A) of this section:

(1) Upon the filing of the application, the court shall set a date, time, and place for a hearing on the application and shall notify the transferee and

transferor of the date, time, and place of the hearing.

(2) Not less than thirty days prior to the date set by the court for the hearing on an application filed pursuant to this section, the transferee shall file with the court and shall serve on the state lottery commission, in the manner prescribed in the Rules of Civil Procedure for the service of process, a notice of the proposed transfer and the application for its approval in advance. The notice shall include all of the following:

(a) A copy of the application;

(b) A copy of the transfer agreement or, if the transferor is not a prize winner, a redacted copy of the transfer agreement that discloses sufficient information to allow the commission and the court to determine the validity of the transfer agreement;

(c) If the transferor is a prize winner, a copy of the disclosure statement provided by the transferee pursuant to section 3770.11 of the Revised Code and signed by the prize winner pursuant to division (A) of section 3770.12 of the Revised Code;

(d) The amounts and due dates of the lottery prize award payments that will be transferred under the transfer agreement;

(e) Notification of the date, time, and place of the hearing on the application;

(f) The complete name, address, and taxpayer identification number of the transferee.

(3) The commission shall not be required to appear in or be named as a party to a hearing on the application, but may intervene as of right in the proceeding.

(4) At the conclusion of the hearing on an application under this section, the court may grant or deny the approval of the transfer. The court shall enter its order accordingly. If the court grants the approval of the transfer, it shall include in its order all of the express findings specified in section 3770.12 of the Revised Code. If the court denies the approval of the transfer, it shall include in its order the reasons for the denial.

(5) An order of the court made under division (B)(4) of this section is a final and appealable order.

Sec. 3770.14. (A) Upon receipt of a court order issued under section 3770.13 of the Revised Code, the transferee shall provide a certified copy of the court order to the director of the state lottery commission. Not later than ten days after receipt of the certified copy of the court order, the director shall acknowledge to the transferee in writing the commission's intent to comply with the court order in making future payments.

(B) The director shall make payments of the lottery prize award to the

transferee designated in the certified copy of the court order and in accordance with the prize payment schedule established when the prize was claimed. The director may charge a processing fee, in an amount determined by the commission by rule pursuant to section 3770.03 of the Revised Code, to cover any direct or indirect costs associated with making the prize award payments in accordance with that prize payment schedule.

(C) Upon payment of the lottery prize award pursuant to this section, the director and the commission are discharged from all further liability therefor.

Sec. 5733.051. Subject to section 5733.0510 of the Revised Code, net income of a corporation subject to the tax imposed by section 5733.06 of the Revised Code shall be allocated and apportioned to this state as follows:

(A) Net rents and royalties from real property located in this state are allocable to this state;.

(B) Net rents and royalties from tangible personal property, to the extent such property is utilized in this state, are allocable to this state if the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code;.

(C) Capital gains and losses from the sale or other disposition of real property located in this state are allocable to this state;.

(D) Capital gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of sale and the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code;.

(E) Capital gains and losses from the sale or other disposition of intangible property which may produce income enumerated in division (F) of this section are allocable on the same basis as set forth in ~~such that~~ that division. Capital gains and losses from the sale or other disposition of all other intangible property are apportionable under division ~~(H)~~(I) of this section.

(F) Dividends or distributions which are not otherwise deducted or excluded from net income, other than dividends or distributions from a domestic international sales corporation, are allocable to this state in accordance with the ratio of the book value of the physical assets of the payor of the dividends or distributions located in this state divided by the book value of the total physical assets of the payor located everywhere. Dividends or distributions received from a domestic international sales corporation, or from a payor the location of whose physical assets is unavailable to the taxpayer, are apportionable under division ~~(H)~~(I) of this section.

(G) Patent and copyright royalties and technical assistance fees, not representing the principal source of gross receipts of the taxpayer, are allocable to this state to the extent that the activity of the payor thereof giving rise to the payment takes place in this state. If the location of the payor's activity is unavailable to the taxpayer, such royalties and fees are apportionable under division ~~(H)~~(I) of this section.

(H) The amounts described in division (B)(5) of section 5747.20 of the Revised Code are allocable to this state.

(I) Any other net income, from sources other than those enumerated in divisions (A) to ~~(G)~~(H) of this section, is apportionable to this state on the basis of the mechanism provided in division (B)(2) of section 5733.05 of the Revised Code.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for manufacturing investments under section 5733.061

of the Revised Code;

(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;

(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(15) The job training credit under section 5733.42 of the Revised Code;

(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;

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

(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;

(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(22) The export sales credit under section 5733.069 of the Revised Code;

(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

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

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;

(26) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

(27) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code.

(B) For any credit except the refundable ~~jobs creation credit~~ credits enumerated in this section, the amount of the credit for a tax year shall not exceed the tax due 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.

Sec. 5747.062. As used in this section, "transferee" has the same meaning as in section 3770.10 of the Revised Code, and "recipient" includes a transferee.

(A)(1) The state lottery commission shall:

~~(1) Deduct~~ deduct and withhold from each lottery prize award payment

that exceeds five thousand dollars an amount equal to three and one-half per cent of the payment, prior to making any other reduction required by Chapter 3770. of the Revised Code;.

(2) On or before the tenth banking day of each month, the state lottery commission, and each transferee required to deduct and withhold amounts pursuant to section 3770.072 of the Revised Code, shall file a return and remit to the tax commissioner all amounts deducted and withheld pursuant to this section during the preceding month.

(3) On or before the thirty-first day of January of each year, the state lottery commission, and each transferee required to deduct and withhold amounts pursuant to section 3770.072 of the Revised Code, shall file with the commissioner an annual return, in the form prescribed by the tax commissioner, indicating the total amount deducted and withheld pursuant to this section during the preceding calendar year. At the time of filing that return, the state lottery commission or transferee shall remit any amount deducted and withheld during the preceding calendar year that was not previously remitted.

(4) ~~Issue~~ The state lottery commission, and each transferee required to deduct and withhold amounts pursuant to section 3770.072 of the Revised Code, shall issue to each ~~recipient of a lottery prize award from which the commission~~ person with respect to whom tax has been deducted and withheld ~~tax by the commission or transferee~~ pursuant to this section during the preceding calendar year, an information return in the form prescribed by ~~rule of the commissioner.~~

(B) ~~Amounts~~ (1) Division (B)(1) of this section does not apply to persons classified for federal income tax purposes as associations taxable as corporations.

Amounts withheld pursuant to this section shall be treated as a credit against any the tax imposed upon the recipient of the lottery prize award pursuant to section 5747.02 of the Revised Code upon the lottery prize award recipient, upon a beneficiary of such a recipient, or upon any investor in such a recipient if the recipient is a pass-through entity or disregarded entity, and shall be treated as paid by the recipient, beneficiary, or investor on the date on which those amounts are deducted and withheld by the commission. The credit shall be is a refundable credit, applicable after subtracting all other credits to which the recipient may be entitled pursuant to this chapter and shall be claimed in the order required under section 5747.98 of the Revised Code. The credit is available to the recipient, beneficiary, or investor even if the commission or transferee does not remit to the tax commissioner the amount withheld.

(2) Division (B)(2) of this section applies only to persons classified for federal income tax purposes as associations taxable as corporations.

Amount withheld pursuant to this section shall be treated as a credit against the tax imposed pursuant to section 5733.06 of the Revised Code for the tax year immediately following the date on which those amounts are deducted and withheld, upon the lottery prize award recipient, upon a beneficiary of such a recipient, or upon an investor in such a recipient if the recipient is a pass-through entity or disregarded entity, and shall be treated as paid by the recipient, beneficiary, or investor on the date on which those amounts are deducted and withheld. The credit is a refundable credit and shall be claimed in the order required under section 5733.98 of the Revised Code. The credit is available to the recipient, beneficiary, or investor even if the commission or transferee does not remit to the tax commissioner the amount withheld.

(3) Nothing in division (B)(1) or (2) of this section shall be construed to allow more than one person to claim the credit for any portion of each amount deducted and withheld.

(C) Failure of the commission or any transferee to deduct and withhold the required amounts from lottery prize awards or to remit amounts withheld as required by this section and section 3770.072 of the Revised Code shall not relieve a ~~recipient of a lottery prize award~~ taxpayer described in division (B) of this section from liability for the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

Sec. 5747.20. This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code.

All items of nonbusiness income or deduction shall be allocated in this state as follows:

(A) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a resident shall be allocated to this state.

(B) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a nonresident shall be allocated to this state as follows:

(1) All items of compensation paid to an individual for personal services performed in this state who was a nonresident at the time of payment and all items of deduction directly allocated thereto shall be allocated to this state;

(2) All gains or losses from the sale of real property, tangible personal property, or intangible property shall be allocated as follows:

(a) Capital gains or losses from the sale or other transfer of real property are allocable to this state if the property is located physically in this state.

(b) Capital gains or losses from the sale or other transfer of tangible personal property are allocable to this state if, at the time of such sale or other transfer, the property had its physical location in this state.

(c) Capital gains or losses from the sale or other transfer of intangible personal property are allocable to this state if the taxpayer's domicile was in this state at the time of such sale or other transfer.

(3) All rents and royalties of real or tangible personal property shall be allocated to this state as follows:

(a) Rents and royalties derived from real property are allocable to this state if the property is physically located in this state.

(b) Rents and royalties derived from tangible personal property are allocable to this state to the extent that such property is utilized in this state.

The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in this state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the nonresident, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(4) All patent and copyright royalties shall be allocated to this state to the extent the patent or copyright was utilized by the payor in this state.

A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state, or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer's domicile was in this state at the time such royalties were paid or accrued.

A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the taxpayer's domicile was in this state at the time such royalties were paid or accrued.

(5)(a) All lottery prize awards paid by the state lottery commission

pursuant to Chapter 3770. of the Revised Code shall be allocated to this state.

(b) All earnings, profit, income, and gain from the sale, exchange, or other disposition of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code shall be allocated to this state.

(c) All earnings, profit, income, and gain from the direct or indirect ownership of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code shall be allocated to this state.

(d) All earnings, profit, income, and gain from the direct or indirect interest in any right in or to any lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code shall be allocated to this state.

(6) Any item of income or deduction which has been taken into account in the computation of adjusted gross income for the taxable year by a nonresident and which is not otherwise specifically allocated or apportioned pursuant to sections 5747.20 to 5747.23 of the Revised Code, including, without limitation, interest, dividends and distributions, items of income taken into account under the provisions of sections 401 to 425 of the Internal Revenue Code, and benefit payments received by a beneficiary of a supplemental unemployment trust which is referred to in section 501~~(C)~~(c)(17) of the Internal Revenue Code, shall not be allocated to this state unless the taxpayer's domicile was in this state at the time such income was paid or accrued.

(C) If an individual is a resident for part of the taxable year and a nonresident for the remainder of the taxable year, all items of nonbusiness income or deduction shall be allocated under division (A) of this section for the part of the taxable year that the individual is a resident and under division (B) of this section for the part of the taxable year that the individual is a nonresident.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due 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) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section

5747.05 of the Revised Code;

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

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

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

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

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

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

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

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

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

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

(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;

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

(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

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

(19) The credit for manufacturing investments under section 5747.051 of the Revised Code;

(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised

Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

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

(28) The export sales credit under section 5747.057 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

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

(31) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;

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

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

(34) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in ~~divisions (A)(31), (32), and (33)~~ of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due 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 3770.07, 3770.072, 5733.051, 5733.98, 5747.062, 5747.20, and 5747.98 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____