

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 206

Representatives Stoltzfus, Boyd

**Cosponsors: Representatives Carfagna, Crawley, Crossman, Galonski, Kick,
Manchester, Riedel, Stein**

A BILL

To amend sections 5747.02, 5747.37, and 5747.98 of 1
the Revised Code to enhance the tax credit 2
awarded for family adoptions. 3

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

Section 1. That sections 5747.02, 5747.37, and 5747.98 of 4
the Revised Code be amended to read as follows: 5

Sec. 5747.02. (A) For the purpose of providing revenue for 6
the support of schools and local government functions, to 7
provide relief to property taxpayers, to provide revenue for the 8
general revenue fund, and to meet the expenses of administering 9
the tax levied by this chapter, there is hereby levied on every 10
individual, trust, and estate residing in or earning or 11
receiving income in this state, on every individual, trust, and 12
estate earning or receiving lottery winnings, prizes, or awards 13
pursuant to Chapter 3770. of the Revised Code, on every 14
individual, trust, and estate earning or receiving winnings on 15
casino gaming, and on every individual, trust, and estate 16
otherwise having nexus with or in this state under the 17
Constitution of the United States, an annual tax measured as 18

prescribed in divisions (A) (1) to (4) of this section. 19

(1) In the case of trusts, the tax imposed by this section 20
shall be measured by modified Ohio taxable income under division 21
(D) of this section and levied in the same amount as the tax is 22
imposed on estates as prescribed in division (A) (2) of this 23
section. 24

(2) In the case of estates, the tax imposed by this 25
section shall be measured by Ohio taxable income and levied at 26
the rate of seven thousand four hundred twenty-five ten- 27
thousandths per cent for the first ten thousand five hundred 28
dollars of such income and, for income in excess of that amount, 29
at the same rates prescribed in division (A) (3) of this section 30
for individuals. 31

(3) In the case of individuals, for taxable years 32
beginning in 2017 or thereafter, the tax imposed by this section 33
on income other than taxable business income shall be measured 34
by Ohio adjusted gross income, less taxable business income and 35
less an exemption for the taxpayer, the taxpayer's spouse, and 36
each dependent as provided in section 5747.025 of the Revised 37
Code. If the balance thus obtained is equal to or less than ten 38
thousand five hundred dollars, no tax shall be imposed on that 39
balance. If the balance thus obtained is greater than ten 40
thousand five hundred dollars, the tax is hereby levied as 41
follows: 42

OHIO ADJUSTED GROSS 43

INCOME LESS TAXABLE 44

BUSINESS INCOME AND EXEMPTIONS 45

(INDIVIDUALS) 46

OR 47

MODIFIED OHIO 48

TAXABLE INCOME (TRUSTS)	49
OR	50
OHIO TAXABLE INCOME (ESTATES) TAX	51
More than \$10,500 but \$77.96 plus 1.980% of the amount	52
not more than \$15,800 in excess of \$10,500	53
More than \$15,800 but \$182.90 plus 2.476% of the amount	54
not more than \$21,100 in excess of \$15,800	55
More than \$21,100 but \$314.13 plus 2.969% of the amount	56
not more than \$42,100 in excess of \$21,100	57
More than \$42,100 but \$937.62 plus 3.465% of the amount	58
not more than \$84,200 in excess of \$42,100	59
More than \$84,200 but \$2,396.39 plus 3.960% of the amount	60
not more than \$105,300 in excess of \$84,200	61
More than \$105,300 but \$3,231.95 plus 4.597% of the amount	62
not more than \$210,600 in excess of \$105,300	63
More than \$210,600 \$8,072.59 plus 4.997% of the amount	64
in excess of \$210,600	65
(4) (a) In the case of individuals, for taxable years	66
beginning in 2016 or thereafter, the tax imposed by this section	67
on taxable business income shall equal three per cent of the	68
result obtained by subtracting any amount allowed under division	69
(A) (4) (b) of this section from the individual's taxable business	70
income.	71
(b) If the exemptions allowed to an individual under	72
division (A) (3) of this section exceed the taxpayer's Ohio	73
adjusted gross income less taxable business income, the excess	74
shall be deducted from taxable business income before computing	75
the tax under division (A) (4) (a) of this section.	76

(5) Except as otherwise provided in this division, in 77
August of each year, the tax commissioner shall make a new 78
adjustment to the income amounts prescribed in divisions (A) (2) 79
and (3) of this section by multiplying the percentage increase 80
in the gross domestic product deflator computed that year under 81
section 5747.025 of the Revised Code by each of the income 82
amounts resulting from the adjustment under this division in the 83
preceding year, adding the resulting product to the 84
corresponding income amount resulting from the adjustment in the 85
preceding year, and rounding the resulting sum to the nearest 86
multiple of fifty dollars. The tax commissioner also shall 87
recompute each of the tax dollar amounts to the extent necessary 88
to reflect the new adjustment of the income amounts. To 89
recompute the tax dollar amount corresponding to the lowest tax 90
rate in division (A) (3) of this section, the commissioner shall 91
multiply the tax rate prescribed in division (A) (2) of this 92
section by the income amount specified in that division and as 93
adjusted according to this paragraph. The rates of taxation 94
shall not be adjusted. 95

The adjusted amounts apply to taxable years beginning in 96
the calendar year in which the adjustments are made and to 97
taxable years beginning in each ensuing calendar year until a 98
calendar year in which a new adjustment is made pursuant to this 99
division. The tax commissioner shall not make a new adjustment 100
in any year in which the amount resulting from the adjustment 101
would be less than the amount resulting from the adjustment in 102
the preceding year. 103

(B) If the director of budget and management makes a 104
certification to the tax commissioner under division (B) of 105
section 131.44 of the Revised Code, the amount of tax as 106
determined under divisions (A) (1) to (3) of this section shall 107

be reduced by the percentage prescribed in that certification 108
for taxable years beginning in the calendar year in which that 109
certification is made. 110

(C) The levy of this tax on income does not prevent a 111
municipal corporation, a joint economic development zone created 112
under section 715.691, or a joint economic development district 113
created under section 715.70, 715.71, or 715.72 of the Revised 114
Code from levying a tax on income. 115

(D) This division applies only to taxable years of a trust 116
beginning in 2002 or thereafter. 117

(1) The tax imposed by this section on a trust shall be 118
computed by multiplying the Ohio modified taxable income of the 119
trust by the rates prescribed by division (A) of this section. 120

(2) A resident trust may claim a credit against the tax 121
computed under division (D) of this section equal to the lesser 122
of (a) the tax paid to another state or the District of Columbia 123
on the resident trust's modified nonbusiness income, other than 124
the portion of the resident trust's nonbusiness income that is 125
qualifying investment income as defined in section 5747.012 of 126
the Revised Code, or (b) the effective tax rate, based on 127
modified Ohio taxable income, multiplied by the resident trust's 128
modified nonbusiness income other than the portion of the 129
resident trust's nonbusiness income that is qualifying 130
investment income. The credit applies before any other 131
applicable credits. 132

(3) The credits enumerated in divisions (A) (1) to (9) and 133
(A) ~~(18)~~ (17) to ~~(20)~~ (19) of section 5747.98 of the Revised Code 134
do not apply to a trust subject to division (D) of this section. 135
Any credits enumerated in other divisions of section 5747.98 of 136

the Revised Code apply to a trust subject to division (D) of 137
this section. To the extent that the trust distributes income 138
for the taxable year for which a credit is available to the 139
trust, the credit shall be shared by the trust and its 140
beneficiaries. The tax commissioner and the trust shall be 141
guided by applicable regulations of the United States treasury 142
regarding the sharing of credits. 143

(E) For the purposes of this section, "trust" means any 144
trust described in Subchapter J of Chapter 1 of the Internal 145
Revenue Code, excluding trusts that are not irrevocable as 146
defined in division (I)(3)(b) of section 5747.01 of the Revised 147
Code and that have no modified Ohio taxable income for the 148
taxable year, charitable remainder trusts, qualified funeral 149
trusts and preneed funeral contract trusts established pursuant 150
to sections 4717.31 to 4717.38 of the Revised Code that are not 151
qualified funeral trusts, endowment and perpetual care trusts, 152
qualified settlement trusts and funds, designated settlement 153
trusts and funds, and trusts exempted from taxation under 154
section 501(a) of the Internal Revenue Code. 155

(F) Nothing in division (A)(3) of this section shall 156
prohibit an individual with an Ohio adjusted gross income, less 157
taxable business income and exemptions, of ten thousand five 158
hundred dollars or less from filing a return under this chapter 159
to receive a refund of taxes withheld or to claim any refundable 160
credit allowed under this chapter. 161

Sec. 5747.37. (A) As used in this section: 162

(1) "Minor child" means a person under eighteen years of 163
age. 164

(2) "Legally adopt" means to adopt a minor child pursuant 165

to Chapter 3107. of the Revised Code, or pursuant to the laws of 166
any other state or nation if such an adoption is recognizable 167
under section 3107.18 of the Revised Code. For the purposes of 168
this section, a minor child is legally adopted when the final 169
decree or order of adoption is issued by the proper court under 170
the laws of the state or nation under which the child is 171
adopted, or, in the case of an interlocutory order of adoption, 172
when the order becomes final under the laws of the state or 173
nation. "Legally adopt" does not include the adoption of a minor 174
child by the child's stepparent. 175

(B) There is hereby granted a refundable credit against a 176
taxpayer's aggregate tax liability under section 5747.02 of the 177
Revised Code for the legal adoption by a taxpayer of a minor 178
child. The amount of the credit for each minor child legally 179
adopted by the taxpayer shall equal the greater of the 180
following: 181

(1) ~~One~~ Five thousand ~~five hundred~~ dollars; 182

(2) The amount of expenses incurred by the taxpayer and 183
the taxpayer's spouse to legally adopt the child, not to exceed 184
ten thousand dollars. For the purposes of this division, 185
expenses incurred to legally adopt a child include expenses 186
described in division (C) of section 3107.055 of the Revised 187
Code. 188

The taxpayer shall claim the credit for each child 189
beginning with the taxable year in which the child was legally 190
adopted. If the sum of the credit to which the taxpayer would 191
otherwise be entitled under this section is greater than the 192
total tax due under section 5747.02 of the Revised Code for that 193
taxable year after allowing for any other credits that precede 194
the credit under this section in the order required under 195

section 5747.98 of the Revised Code, such excess shall be 196
~~allowed as a credit in each of the ensuing five taxable years,~~ 197
~~but the amount of any excess credit allowed in any such taxable~~ 198
~~year shall be deducted from the balance carried forward to the~~ 199
~~ensuing taxable year. The credit shall be claimed in the order~~ 200
~~required under section 5747.98 of the Revised Code. For the~~ 201
~~purposes of making tax payments under this chapter, taxes equal~~ 202
~~to the amount of the credit shall be considered to be paid to~~ 203
~~this state on the first day of the taxable year refunded to the~~ 204
~~taxpayer.~~ 205

The taxpayer shall provide to the tax commissioner any 206
receipts or other documentation of the expenses incurred to 207
legally adopt the child upon the request of the tax commissioner 208
for the purpose of division (B) (2) of this section. 209

Sec. 5747.98. (A) To provide a uniform procedure for 210
calculating a taxpayer's aggregate tax liability under section 211
5747.02 of the Revised Code, a taxpayer shall claim any credits 212
to which the taxpayer is entitled in the following order: 213

(1) Either the retirement income credit under division (B) 214
of section 5747.055 of the Revised Code or the lump sum 215
retirement income credits under divisions (C), (D), and (E) of 216
that section; 217

(2) Either the senior citizen credit under division (F) of 218
section 5747.055 of the Revised Code or the lump sum 219
distribution credit under division (G) of that section; 220

(3) The dependent care credit under section 5747.054 of 221
the Revised Code; 222

(4) The credit for displaced workers who pay for job 223
training under section 5747.27 of the Revised Code; 224

(5) The campaign contribution credit under section 5747.29 of the Revised Code;	225 226
(6) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	227 228
(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	229 230
(8) The earned income credit under section 5747.71 of the Revised Code;	231 232
(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	233 234
(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	235 236
(11) <u>(10)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	237 238
(12) <u>(11)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	239 240
(13) <u>(12)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	241 242
(14) <u>(13)</u> The small business investment credit under section 5747.81 of the Revised Code;	243 244
(15) <u>(14)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	245 246
(16) <u>(15)</u> The research and development credit under section 5747.331 of the Revised Code;	247 248
(17) <u>(16)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	249 250

(18) <u>(17)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	251 252
(19) <u>(18)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	253 254
(20) <u>(19)</u> The refundable motion picture production credit under section 5747.66 of the Revised Code;	255 256
(21) <u>(20)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	257 258 259
(22) <u>(21)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	260 261 262
(23) <u>(22)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	263 264 265
(24) <u>(23)</u> 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;	266 267 268 269
(25) <u>(24)</u> The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	270 271
(26) <u>(25)</u> The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	272 273 274
<u>(26) The refundable credit for adoption of a minor child under section 5747.37 of the Revised Code.</u>	275 276
(B) For any credit, except the refundable credits	277

enumerated in this section and the credit granted under division 278
(H) of section 5747.08 of the Revised Code, the amount of the 279
credit for a taxable year shall not exceed the taxpayer's 280
aggregate amount of tax due under section 5747.02 of the Revised 281
Code, after allowing for any other credit that precedes it in 282
the order required under this section. Any excess amount of a 283
particular credit may be carried forward if authorized under the 284
section creating that credit. Nothing in this chapter shall be 285
construed to allow a taxpayer to claim, directly or indirectly, 286
a credit more than once for a taxable year. 287

Section 2. That existing sections 5747.02, 5747.37, and 288
5747.98 of the Revised Code are hereby repealed. 289

Section 3. The amendment by this act of sections 5747.37 290
and 5747.98 of the Revised Code applies to taxable years ending 291
on or after the effective date of this act. 292