

**As Reported by the House Ways and Means Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. S. B. No. 18**

**Senators Roegner, Schaffer**

**Cosponsors: Senators Blessing, Cirino, Dolan, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Johnson, Kunze, Lang, McColley, O'Brien, Peterson, Reineke, Schuring, Sykes, Thomas, Wilson, Yuko Representatives Merrin, Roemer**

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**A BILL**

To amend sections 4141.321, 5701.11, 5733.41, and 1  
5747.41 and to enact section 5747.065 of the 2  
Revised Code and to amend Section 36 of H.B. 481 3  
of the 133rd General Assembly to modify the law 4  
governing taxation and to declare an emergency. 5

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

**Section 1.** That sections 4141.321, 5701.11, 5733.41, and 6  
5747.41 be amended and section 5747.065 of the Revised Code be 7  
enacted to read as follows: 8

**Sec. 4141.321.** (A) The director of job and family services 9  
shall inform an individual who files an application for 10  
determination of benefit rights ~~on and after January 1, 1997,~~ of 11  
all of the following at the time the individual files the 12  
application: 13

(1) Unemployment compensation is subject to federal and 14  
state income tax~~taxes~~; 15

(2) Requirements exist pertaining to estimated tax 16

payments; 17

(3) An individual may elect to have federal and state 18  
income ~~tax~~ taxes deducted and withheld from the unemployment 19  
compensation benefits payable to that individual in the ~~amount~~ 20  
~~specified in amounts required under the~~ "Internal Revenue Code 21  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq. and section 22  
5747.065 of the Revised Code; 23

(4) An individual may change the withholding status the 24  
individual has previously elected once during the individual's 25  
benefit year. 26

(B) ~~The~~ If the individual makes the election under 27  
division (A)(3) of this section, the director shall deduct and 28  
withhold from unemployment compensation benefits payable to an 29  
individual ~~after December 31, 1996,~~ federal income tax in the 30  
amount specified in the "Internal Revenue Code of 1986," 100 31  
Stat. 2085, 26 U.S.C.A. 1 et seq., ~~if the individual informs the~~ 32  
~~director that the individual elects to have the director make~~ 33  
~~the deduction~~ and state income tax as required under section 34  
5747.065 of the Revised Code. 35

(C) In ~~making the deduction specified in~~ deducting federal 36  
income tax under division (B) of this section, the director 37  
shall comply with the procedures specified by the United States 38  
department of labor and the internal revenue service that 39  
pertain to the deducting and withholding of income tax. The 40  
director shall adopt rules establishing priorities for the 41  
deduction and withholding of federal income tax amounts under 42  
division (B) of this section. 43

(D) ~~Amounts~~ Federal income tax deducted and withheld 44  
pursuant to division (B) of this section shall remain in the 45

unemployment compensation fund until transferred to the internal revenue service as a payment of income tax. 46  
47

**Sec. 5701.11.** The effective date to which this section 48  
refers is the effective date of this section as amended by ~~H.B.~~ 49  
~~197-S.B. 18~~ of the ~~133rd-134th~~ general assembly. 50

(A) (1) Except as provided under division (A) (2) or (B) of 51  
this section, any reference in Title LVII of the Revised Code to 52  
the Internal Revenue Code, to the Internal Revenue Code "as 53  
amended," to other laws of the United States, or to other laws 54  
of the United States, "as amended," means the Internal Revenue 55  
Code or other laws of the United States as they exist on the 56  
effective date. 57

(2) This section does not apply to any reference in Title 58  
LVII of the Revised Code to the Internal Revenue Code as of a 59  
date certain specifying the day, month, and year, or to other 60  
laws of the United States as of a date certain specifying the 61  
day, month, and year. 62

(B) (1) For purposes of applying section 5733.04, 5745.01, 63  
or 5747.01 of the Revised Code to a taxpayer's taxable year 64  
ending after ~~March 30, 2018~~March 27, 2020, and before the 65  
effective date, a taxpayer may irrevocably elect to incorporate 66  
the provisions of the Internal Revenue Code or other laws of the 67  
United States that are in effect for federal income tax purposes 68  
for that taxable year if those provisions differ from the 69  
provisions that, under division (A) of this section, would 70  
otherwise apply. The filing by the taxpayer for that taxable 71  
year of a report or return that incorporates the provisions of 72  
the Internal Revenue Code or other laws of the United States 73  
applicable for federal income tax purposes for that taxable 74  
year, and that does not include any adjustments to reverse the 75

effects of any differences between those provisions and the 76  
provisions that would otherwise apply, constitutes the making of 77  
an irrevocable election under this division for that taxable 78  
year. 79

(2) Elections under prior versions of division (B) (1) of 80  
this section remain in effect for the taxable years to which 81  
they apply. 82

**Sec. 5733.41.** The purpose of the tax imposed by this 83  
section is to complement and to reinforce the tax imposed under 84  
section 5733.06 of the Revised Code. 85

For the same purposes for which the tax is levied under 86  
section 5733.06 of the Revised Code, there is hereby levied a 87  
tax on every qualifying pass-through entity having at least one 88  
qualifying investor that is not an individual. The tax imposed 89  
by this section is imposed on the sum of the adjusted qualifying 90  
amounts of the qualifying pass-through entity's qualifying 91  
investors, ~~that are not neither individuals as follows: for~~ 92  
~~qualifying investors nor~~ subject to division (G) (2) of section 93  
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 94  
~~for the entity's taxable year ending in 2005, at five and one~~ 95  
~~tenth per cent for the entity's taxable year ending in 2006, at~~ 96  
~~three and four tenths per cent for the entity's taxable year~~ 97  
~~ending in 2007, at one and seven tenths per cent for the~~ 98  
~~entity's taxable year ending in 2008, and at zero per cent for~~ 99  
~~the entity's taxable year ending in 2009 or in subsequent years,~~ 100  
~~and for all other qualifying investors that are not individuals,~~ 101  
~~at the a rate of eight and one half per cent equal to the tax~~ 102  
rate imposed on taxable business income under division (A) (4) (a) 103  
of section 5747.02 of the Revised Code. 104

The tax imposed by this section applies only if the 105

qualifying entity has nexus with this state under the 106  
Constitution of the United States for any portion of the 107  
qualifying entity's qualifying taxable year, and the sum of the 108  
qualifying entity's adjusted qualifying amounts exceeds one 109  
thousand dollars for the qualifying entity's qualifying taxable 110  
year. This section does not apply to a pass-through entity if 111  
all of the partners, shareholders, members, or investors of the 112  
pass-through entity are taxpayers for the purposes of section 113  
5733.04 of the Revised Code without regard to section 5733.09 of 114  
the Revised Code for the entire qualifying taxable year of the 115  
pass-through entity. 116

If, prior to the due date of the return, a qualifying 117  
pass-through entity receives from an investor a written 118  
representation, under penalties of perjury, that the investor is 119  
described in division (I) (1), (2), (6), (7), (8), or (9) of 120  
section 5733.40 of the Revised Code for the qualifying pass- 121  
through entity's entire qualifying taxable year, the qualifying 122  
pass-through entity is not required to withhold or pay the taxes 123  
or estimated taxes imposed under this section or sections 124  
5747.41 to 5747.453 of the Revised Code with respect to that 125  
investor for that qualifying taxable year, and is not subject to 126  
any interest or interest penalties for failure to withhold or 127  
pay those taxes or estimated taxes with respect to that investor 128  
for that qualifying taxable year. 129

If, prior to the due date of the return, a qualifying 130  
trust receives from a beneficiary of that trust a written 131  
representation, under penalties of perjury, that the beneficiary 132  
is a resident taxpayer for the purposes of Chapter 5747. of the 133  
Revised Code for the qualifying trust's entire qualifying 134  
taxable year, the qualifying trust is not required to withhold 135  
or pay the taxes or estimated taxes imposed under this section 136

or sections 5747.41 to 5747.453 of the Revised Code with respect 137  
to that beneficiary for that qualifying taxable year, and is not 138  
subject to any interest or interest penalties for failure to 139  
withhold or pay those taxes or estimated taxes with respect to 140  
that beneficiary for that qualifying taxable year. 141

The tax commissioner may adopt rules for the purpose of 142  
the tax levied by this section or section 5747.41 of the Revised 143  
Code, including a rule defining "qualifying investor" or 144  
"qualifying beneficiary," and a rule requiring or permitting a 145  
qualifying entity to combine its income with related members and 146  
to pay the tax and estimated tax on a combined basis. 147

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 148  
Revised Code apply to a qualifying entity subject to the tax 149  
imposed under this section. 150

The levy of the tax under this section does not prevent a 151  
municipal corporation or a joint economic development district 152  
created under section 715.70, 715.71, or 715.72 of the Revised 153  
Code from levying a tax on income. 154

Sec. 5747.065. (A) If a taxpayer has elected under section 155  
4141.321 of the Revised Code to have the director of job and 156  
family services deduct and withhold state income tax from the 157  
unemployment compensation benefits payable to the taxpayer, the 158  
director shall deduct and withhold such tax at the rate or rates 159  
that the director shall prescribe in consultation with the tax 160  
commissioner. 161

(B)(1) The director of job and family services shall file 162  
returns and pay the amounts withheld in accordance with the 163  
requirements of section 5747.07 of the Revised Code. 164

(2) Annually, on or before the thirty-first day of 165

January, the director shall issue an information return to each 166  
taxpayer with respect to whom an amount has been deducted and 167  
withheld under this section during the preceding calendar year. 168  
The information return shall show the total amount deducted from 169  
the taxpayer's unemployment compensation benefits during the 170  
preceding calendar year and any other information the tax 171  
commissioner requires. If the director is required under the 172  
Internal Revenue Code to report federal income tax deducted and 173  
withheld from unemployment compensation benefits, then the 174  
director may report the information required under this section 175  
on that report, as authorized by the Internal Revenue Code. 176

(C) Amounts deducted and withheld under this section shall 177  
be allowed as a credit against payment of the tax imposed by 178  
this chapter and shall be treated as taxes paid for purposes of 179  
section 5747.09 of the Revised Code. This division applies only 180  
to the person for whom the amount is deducted and withheld. 181

(D) Failure of the director to deduct and withhold the 182  
required amounts from unemployment compensation benefits or to 183  
remit amounts withheld as required by this section does not 184  
relieve a taxpayer from liability for the tax imposed by section 185  
5747.02 of the Revised Code. 186

(E) The director of job and family services may adopt 187  
rules as necessary to administer this section. 188

**Sec. 5747.41.** For the same purposes for which the tax is 189  
levied under section 5747.02 of the Revised Code, there is 190  
hereby levied a withholding tax on every qualifying pass-through 191  
entity having at least one qualifying investor who is an 192  
individual and on every qualifying trust having at least one 193  
qualifying beneficiary who is an individual. The withholding tax 194  
imposed by this section is imposed on the sum of the adjusted 195

qualifying amounts of a qualifying pass-through entity's 196  
qualifying investors who are individuals and on the sum of the 197  
adjusted qualifying amounts of a qualifying trust's qualifying 198  
beneficiaries, ~~at the a rate of five per cent of that sum~~equal 199  
to the tax rate imposed on taxable business income under 200  
division (A) (4) (a) of section 5747.02 of the Revised Code. 201

The tax imposed by this section applies only if the 202  
qualifying entity has nexus with this state under the 203  
Constitution of the United States for any portion of the 204  
qualifying entity's qualifying taxable year, and the sum of the 205  
qualifying entity's adjusted qualifying amounts exceeds one 206  
thousand dollars for the qualifying entity's qualifying taxable 207  
year. 208

**Section 2.** That existing sections 4141.321, 5701.11, 209  
5733.41, and 5747.41 of the Revised Code are hereby repealed. 210

**Section 3.** That Section 36 of H.B. 481 of the 133rd 211  
General Assembly be amended to read as follows: 212

**Sec. 36.** Notwithstanding any provision of Chapter 5751. of 213  
the Revised Code to the contrary, "gross receipts," as defined 214  
in section 5751.01 of the Revised Code, excludes receipts from 215  
any forgiven indebtedness that is excluded from the gross income 216  
of the taxpayer for federal income tax purposes pursuant to 217  
section 1106(i) of the "Coronavirus Aid, Relief, and Economic 218  
Security (CARES) Act," ~~15 U.S.C. 9005(i) 636m,~~ or section 276 of 219  
the "Consolidated Appropriations Act, 2021," 15 U.S.C. 636m. 220

**Section 4.** That existing Section 36 of H.B. 481 of the 221  
133rd General Assembly is hereby repealed. 222

**Section 5.** Notwithstanding any provision of Chapter 5747. 223  
of the Revised Code to the contrary, the Tax Commissioner may 224



temporarily waive any interest, penalty, or interest penalty 225  
imposed under that chapter on an underpayment of tax imposed 226  
under that chapter or Chapter 5748. of the Revised Code due with 227  
respect to unemployment compensation received by the taxpayer on 228  
or after January 1, 2020, but before January 1, 2021, provided 229  
the taxpayer timely files an annual return required under 230  
section 5747.08 of the Revised Code for the taxpayer's taxable 231  
year ending in 2020. A taxpayer that has paid any interest, 232  
penalty, or interest penalty on such an underpayment may apply 233  
for a refund of the interest, penalty, or interest penalty paid 234  
under section 5747.11 of the Revised Code. If such an 235  
underpayment is not paid before July 1, 2023, interest shall be 236  
imposed on the underpayment in accordance with division (G) of 237  
section 5747.08 of the Revised Code and penalties and interest 238  
penalties shall be assessed on such an underpayment in 239  
accordance with Chapter 5747. of the Revised Code from the time 240  
that underpayment would have been due without extension in the 241  
absence of the temporary waiver authorized under this section, 242  
and no refund of such interest, penalty, or interest penalty may 243  
be granted under this section. This section does not prohibit 244  
the Commissioner from abating any such penalty or interest 245  
penalty under division (C) of section 5747.15 of the Revised 246  
Code. 247

Terms used in this section have the same meanings as in 248  
section 5747.01 of the Revised Code. 249

**Section 6.** Notwithstanding any provision of Chapter 5751. 250  
of the Revised Code to the contrary, "gross receipts," as 251  
defined in section 5751.01 of the Revised Code, excludes any 252  
amount of excess surplus of the state insurance fund received by 253  
a taxpayer from the Ohio Bureau of Workers' Compensation 254  
pursuant to rules adopted under section 4123.321 of the Revised 255

Code on or after January 1, 2020, and before January 1, 2022.	256
<b>Section 7.</b> The amendment by this act of sections 5733.41	257
and 5747.41 of the Revised Code applies to qualifying taxable	258
years beginning on and after January 1, 2023.	259
<b>Section 8.</b> The election authorized under section 4141.321	260
of the Revised Code to withhold state income taxes applies to	261
unemployment compensation benefits paid on or after January 1,	262
2022.	263
On or before December 1, 2021, the Director of Job and	264
Family Services shall notify each individual that was receiving	265
on that date, and that continues to receive, unemployment	266
compensation benefits and that made an election under division	267
(B) of that section with respect to federal income tax that the	268
individual may elect to have state income tax withheld from	269
those benefits for benefits paid on or after January 1, 2022, in	270
accordance with that division. Such an election is not a change	271
in withholding status for the purpose of division (A) (4) of that	272
section.	273
<b>Section 9.</b> This act is hereby declared to be an emergency	274
measure necessary for the immediate preservation of the public	275
peace, health, and safety. The reason for such necessity is to	276
enable taxpayers to avoid making miscellaneous adjustments on	277
their 2020 tax returns that increase costs of compliance.	278
Therefore, this act shall go into immediate effect.	279