

As Passed by the House

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S. B. No. 231

Senator Hottinger

Cosponsors: Senators Cirino, Blessing, Schaffer, Antonio, Brenner, Craig, Fedor, Gavarone, Hackett, Johnson, Kunze, Maharath, Manning, Reineke, Romanchuk, Schuring, Sykes, Thomas, Wilson Representatives Baldrige, Brent, Carruthers, Click, Denson, Fowler Arthur, Fraizer, Galonski, Ginter, Grendell, Hillyer, Holmes, Jones, Kick, Lampton, LaRe, Loychik, Manning, Merrin, Miller, A., Oelslager, Patton, Pavliga, Richardson, Russo, Schmidt, Stevens, Troy, West, White, Young, T.

A BILL

To amend section 5747.11 of the Revised Code to
expressly authorize the issuance of an income
tax refund in the name of a deceased taxpayer's
fiduciary.

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

Section 1. That section 5747.11 of the Revised Code be
amended to read as follows:

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Sec. 5747.11. (A) The tax commissioner shall refund to
employers, qualifying entities, or taxpayers subject to a tax
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter
5748. of the Revised Code the amount of any overpayment of such
tax.

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(B) (1) Except as otherwise provided under divisions (D)
and (E) of this section, applications for refund shall be filed
with the tax commissioner, on the form prescribed by the

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commissioner, within four years from the date of the illegal, 15
erroneous, or excessive payment of the tax, or within any 16
additional period allowed by division (B) (3) (b) of section 17
5747.05, division (E) of section 5747.10, division (A) of 18
section 5747.13, or division (C) of section 5747.45 of the 19
Revised Code. 20

On filing of the refund application, the commissioner 21
shall determine the amount of refund due and, if that amount 22
exceeds one dollar, certify such amount to the director of 23
budget and management and treasurer of state for payment from 24
the tax refund fund created by section 5703.052 of the Revised 25
Code. Payment shall be made as provided in division (C) of 26
section 126.35 of the Revised Code. 27

(2) If an individual taxpayer is deceased, a refund may be 28
issued in the name of the decedent and of the executor, 29
administrator, or other person charged with the decedent's 30
property, upon the request of that person. Such a request shall 31
include any documentation, including a copy of the taxpayer's 32
death certificate and any fiduciary or court documents, that the 33
tax commissioner considers necessary to prove that the person 34
making the request is qualified to receive the refund. If the 35
request is for a refund that was previously issued in only the 36
decedent's name, the person making the request must also provide 37
the previously issued payment to the commissioner. 38

(C) (1) Interest shall be allowed and paid at the rate per 39
annum prescribed by section 5703.47 of the Revised Code on 40
amounts refunded with respect to the tax imposed under section 41
5747.02 or Chapter 5748. of the Revised Code from the date of 42
the overpayment until the date of the refund of the overpayment, 43
except that if any overpayment is refunded within ninety days 44

after the final filing date of the annual return or ninety days 45
after the return is filed, whichever is later, no interest shall 46
be allowed on such overpayment. If the overpayment results from 47
the carryback of a net operating loss or net capital loss to a 48
previous taxable year, the overpayment is deemed not to have 49
been made prior to the filing date, including any extension 50
thereof, for the taxable year in which the net operating loss or 51
net capital loss arises. For purposes of the payment of interest 52
on overpayments, no amount of tax, for any taxable year, shall 53
be treated as having been paid before the date on which the tax 54
return for that year was due without regard to any extension of 55
time for filing such return. 56

(2) Interest shall be allowed at the rate per annum 57
prescribed by section 5703.47 of the Revised Code on amounts 58
refunded with respect to the taxes imposed under sections 59
5733.41 and 5747.41 of the Revised Code. The interest shall run 60
from whichever of the following days is the latest until the day 61
the refund is paid: the day the illegal, erroneous, or excessive 62
payment was made; the ninetieth day after the final day the 63
annual report was required to be filed under section 5747.42 of 64
the Revised Code; or the ninetieth day after the day that report 65
was filed. 66

(D) "Ninety days" shall be substituted for "four years" in 67
division (B) of this section if the taxpayer satisfies both of 68
the following conditions: 69

(1) The taxpayer has applied for a refund based in whole 70
or in part upon section 5747.059 of the Revised Code; 71

(2) The taxpayer asserts that either the imposition or 72
collection of the tax imposed or charged by this chapter or any 73
portion of such tax violates the Constitution of the United 74

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| States or the Constitution of Ohio. | 75 |
| (E) (1) Division (E) (2) of this section applies only if all of the following conditions are satisfied: | 76 77 |
| (a) A qualifying entity pays an amount of the tax imposed by section 5733.41 or 5747.41 of the Revised Code; | 78 79 |
| (b) The taxpayer is a qualifying investor as to that qualifying entity; | 80 81 |
| (c) The taxpayer did not claim the credit provided for in section 5747.059 of the Revised Code as to the tax described in division (E) (1) (a) of this section; | 82 83 84 |
| (d) The four-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit. | 85 86 87 |
| (2) A taxpayer shall file an application for refund pursuant to division (E) of this section within one year after the date the payment described in division (E) (1) (a) of this section is made. An application filed under division (E) (2) of this section shall claim refund only of overpayments resulting from the taxpayer's failure to claim the credit described in division (E) (1) (c) of this section. Nothing in division (E) of this section shall be construed to relieve a taxpayer from complying with division (A) (15) of section 5747.01 of the Revised Code. | 88 89 90 91 92 93 94 95 96 97 |
| Section 2. That existing section 5747.11 of the Revised Code is hereby repealed. | 98 99 |