

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**H. B. No. 577**

**Representative White**

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**A BILL**

To amend sections 5747.08 and 5747.98 and to enact 1  
section 5747.74 of the Revised Code to authorize 2  
a refundable income tax credit for certain child 3  
care expenses. 4

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

**Section 1.** That sections 5747.08 and 5747.98 be amended 5  
and section 5747.74 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 5747.08.** An annual return with respect to the tax 8  
imposed by section 5747.02 of the Revised Code and each tax 9  
imposed under Chapter 5748. of the Revised Code shall be made by 10  
every taxpayer for any taxable year for which the taxpayer is 11  
liable for the tax imposed by that section or under that 12  
chapter, unless the total credits allowed under division (E) of 13  
section 5747.05 and divisions (F) and (G) of section 5747.055 of 14  
the Revised Code for the year are equal to or exceed the tax 15  
imposed by section 5747.02 of the Revised Code, in which case no 16  
return shall be required unless the taxpayer is liable for a tax 17  
imposed pursuant to Chapter 5748. of the Revised Code. 18

(A) If an individual is deceased, any return or notice 19

required of that individual under this chapter shall be made and 20  
filed by that decedent's executor, administrator, or other 21  
person charged with the property of that decedent. 22

(B) If an individual is unable to make a return or notice 23  
required by this chapter, the return or notice required of that 24  
individual shall be made and filed by the individual's duly 25  
authorized agent, guardian, conservator, fiduciary, or other 26  
person charged with the care of the person or property of that 27  
individual. 28

(C) Returns or notices required of an estate or a trust 29  
shall be made and filed by the fiduciary of the estate or trust. 30

(D) (1) (a) Except as otherwise provided in division (D) (1) 31  
(b) of this section, any pass-through entity may file a single 32  
return on behalf of one or more of the entity's investors other 33  
than an investor that is a person subject to the tax imposed 34  
under section 5733.06 of the Revised Code. The single return 35  
shall set forth the name, address, and social security number or 36  
other identifying number of each of those pass-through entity 37  
investors and shall indicate the distributive share of each of 38  
those pass-through entity investor's income taxable in this 39  
state in accordance with sections 5747.20 to 5747.231 of the 40  
Revised Code. Such pass-through entity investors for whom the 41  
pass-through entity elects to file a single return are not 42  
entitled to the exemption or credit provided for by sections 43  
5747.02 and 5747.022 of the Revised Code; shall calculate the 44  
tax before business credits at the highest rate of tax set forth 45  
in section 5747.02 of the Revised Code for the taxable year for 46  
which the return is filed; and are entitled to only their 47  
distributive share of the business credits as defined in 48  
division (D) (2) of this section. A single check drawn by the 49

pass-through entity shall accompany the return in full payment 50  
of the tax due, as shown on the single return, for such 51  
investors, other than investors who are persons subject to the 52  
tax imposed under section 5733.06 of the Revised Code. 53

(b) (i) A pass-through entity shall not include in such a 54  
single return any investor that is a trust to the extent that 55  
any direct or indirect current, future, or contingent 56  
beneficiary of the trust is a person subject to the tax imposed 57  
under section 5733.06 of the Revised Code. 58

(ii) A pass-through entity shall not include in such a 59  
single return any investor that is itself a pass-through entity 60  
to the extent that any direct or indirect investor in the second 61  
pass-through entity is a person subject to the tax imposed under 62  
section 5733.06 of the Revised Code. 63

(c) Except as provided by division (L) of this section, 64  
nothing in division (D) of this section precludes the tax 65  
commissioner from requiring such investors to file the return 66  
and make the payment of taxes and related interest, penalty, and 67  
interest penalty required by this section or section 5747.02, 68  
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 69  
of this section precludes such an investor from filing the 70  
annual return under this section, utilizing the refundable 71  
credit equal to the investor's proportionate share of the tax 72  
paid by the pass-through entity on behalf of the investor under 73  
division (I) of this section, and making the payment of taxes 74  
imposed under section 5747.02 of the Revised Code. Nothing in 75  
division (D) of this section shall be construed to provide to 76  
such an investor or pass-through entity any additional deduction 77  
or credit, other than the credit provided by division (I) of 78  
this section, solely on account of the entity's filing a return 79

in accordance with this section. Such a pass-through entity also 80  
shall make the filing and payment of estimated taxes on behalf 81  
of the pass-through entity investors other than an investor that 82  
is a person subject to the tax imposed under section 5733.06 of 83  
the Revised Code. 84

(2) For the purposes of this section, "business credits" 85  
means the credits listed in section 5747.98 of the Revised Code 86  
excluding the following credits: 87

(a) The retirement income credit under division (B) of 88  
section 5747.055 of the Revised Code; 89

(b) The senior citizen credit under division (F) of 90  
section 5747.055 of the Revised Code; 91

(c) The lump sum distribution credit under division (G) of 92  
section 5747.055 of the Revised Code; 93

(d) The dependent care credit under section 5747.054 of 94  
the Revised Code; 95

(e) The lump sum retirement income credit under division 96  
(C) of section 5747.055 of the Revised Code; 97

(f) The lump sum retirement income credit under division 98  
(D) of section 5747.055 of the Revised Code; 99

(g) The lump sum retirement income credit under division 100  
(E) of section 5747.055 of the Revised Code; 101

(h) The credit for displaced workers who pay for job 102  
training under section 5747.27 of the Revised Code; 103

(i) The twenty-dollar personal exemption credit under 104  
section 5747.022 of the Revised Code; 105

(j) The joint filing credit under division (E) of section 106

5747.05 of the Revised Code;	107
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	108 109
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	110 111
(m) The earned income tax credit under section 5747.71 of the Revised Code;	112 113
(n) The lead abatement credit under section 5747.26 of the Revised Code;	114 115
(o) The credit for education expenses under section 5747.72 of the Revised Code;	116 117
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	118 119
<u>(q) The child care expense credit under section 5747.74 of the Revised Code.</u>	120 121
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	122 123 124 125 126 127 128 129
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the	130 131 132 133 134

correct tax due by the pass-through entity investors covered by 135  
that return. Nothing in this division shall be construed to 136  
limit or alter the liability, if any, imposed on pass-through 137  
entity investors for unpaid or underpaid taxes, interest, 138  
interest penalty, or penalties as a result of the pass-through 139  
entity's making the election provided for under division (D) of 140  
this section. For the purposes of division (D) of this section, 141  
"correct tax due" means the tax that would have been paid by the 142  
pass-through entity had the single return been filed in a manner 143  
reflecting the commissioner's findings. Nothing in division (D) 144  
of this section shall be construed to make or hold a pass- 145  
through entity liable for tax attributable to a pass-through 146  
entity investor's income from a source other than the pass- 147  
through entity electing to file the single return. 148

(E) If a husband and wife file a joint federal income tax 149  
return for a taxable year, they shall file a joint return under 150  
this section for that taxable year, and their liabilities are 151  
joint and several, but, if the federal income tax liability of 152  
either spouse is determined on a separate federal income tax 153  
return, they shall file separate returns under this section. 154

If either spouse is not required to file a federal income 155  
tax return and either or both are required to file a return 156  
pursuant to this chapter, they may elect to file separate or 157  
joint returns, and, pursuant to that election, their liabilities 158  
are separate or joint and several. If a husband and wife file 159  
separate returns pursuant to this chapter, each must claim the 160  
taxpayer's own exemption, but not both, as authorized under 161  
section 5747.02 of the Revised Code on the taxpayer's own 162  
return. 163

(F) Each return or notice required to be filed under this 164

section shall contain the signature of the taxpayer or the 165  
taxpayer's duly authorized agent and of the person who prepared 166  
the return for the taxpayer, and shall include the taxpayer's 167  
social security number. Each return shall be verified by a 168  
declaration under the penalties of perjury. The tax commissioner 169  
shall prescribe the form that the signature and declaration 170  
shall take. 171

(G) Each return or notice required to be filed under this 172  
section shall be made and filed as required by section 5747.04 173  
of the Revised Code, on or before the fifteenth day of April of 174  
each year, on forms that the tax commissioner shall prescribe, 175  
together with remittance made payable to the treasurer of state 176  
in the combined amount of the state and all school district 177  
income taxes shown to be due on the form. 178

Upon good cause shown, the commissioner may extend the 179  
period for filing any notice or return required to be filed 180  
under this section and may adopt rules relating to extensions. 181  
If the extension results in an extension of time for the payment 182  
of any state or school district income tax liability with 183  
respect to which the return is filed, the taxpayer shall pay at 184  
the time the tax liability is paid an amount of interest 185  
computed at the rate per annum prescribed by section 5703.47 of 186  
the Revised Code on that liability from the time that payment is 187  
due without extension to the time of actual payment. Except as 188  
provided in section 5747.132 of the Revised Code, in addition to 189  
all other interest charges and penalties, all taxes imposed 190  
under this chapter or Chapter 5748. of the Revised Code and 191  
remaining unpaid after they become due, except combined amounts 192  
due of one dollar or less, bear interest at the rate per annum 193  
prescribed by section 5703.47 of the Revised Code until paid or 194  
until the day an assessment is issued under section 5747.13 of 195

the Revised Code, whichever occurs first. 196

If the commissioner considers it necessary in order to 197  
ensure the payment of the tax imposed by section 5747.02 of the 198  
Revised Code or any tax imposed under Chapter 5748. of the 199  
Revised Code, the commissioner may require returns and payments 200  
to be made otherwise than as provided in this section. 201

To the extent that any provision in this division 202  
conflicts with any provision in section 5747.026 of the Revised 203  
Code, the provision in that section prevails. 204

(H) The amounts withheld pursuant to section 5747.06, 205  
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 206  
Revised Code shall be allowed to the ultimate recipient of the 207  
income as credits against payment of the appropriate taxes 208  
imposed on the ultimate recipient by section 5747.02 and under 209  
Chapter 5748. of the Revised Code. As used in this division, 210  
"ultimate recipient" means the person who is required to report 211  
income from which amounts are withheld pursuant to section 212  
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 213  
the Revised Code on the annual return required to be filed under 214  
this section. 215

(I) If a pass-through entity elects to file a single 216  
return under division (D) of this section and if any investor is 217  
required to file the annual return and make the payment of taxes 218  
required by this chapter on account of the investor's other 219  
income that is not included in a single return filed by a pass- 220  
through entity or any other investor elects to file the annual 221  
return, the investor is entitled to a refundable credit equal to 222  
the investor's proportionate share of the tax paid by the pass- 223  
through entity on behalf of the investor. The investor shall 224  
claim the credit for the investor's taxable year in which or 225



with which ends the taxable year of the pass-through entity. 226  
Nothing in this chapter shall be construed to allow any credit 227  
provided in this chapter to be claimed more than once. For the 228  
purpose of computing any interest, penalty, or interest penalty, 229  
the investor shall be deemed to have paid the refundable credit 230  
provided by this division on the day that the pass-through 231  
entity paid the estimated tax or the tax giving rise to the 232  
credit. 233

(J) The tax commissioner shall ensure that each return 234  
required to be filed under this section includes a box that the 235  
taxpayer may check to authorize a paid tax preparer who prepared 236  
the return to communicate with the department of taxation about 237  
matters pertaining to the return. The return or instructions 238  
accompanying the return shall indicate that by checking the box 239  
the taxpayer authorizes the department of taxation to contact 240  
the preparer concerning questions that arise during the 241  
processing of the return and authorizes the preparer only to 242  
provide the department with information that is missing from the 243  
return, to contact the department for information about the 244  
processing of the return or the status of the taxpayer's refund 245  
or payments, and to respond to notices about mathematical 246  
errors, offsets, or return preparation that the taxpayer has 247  
received from the department and has shown to the preparer. 248

(K) The tax commissioner shall permit individual taxpayers 249  
to instruct the department of taxation to cause any refund of 250  
overpaid taxes to be deposited directly into a checking account, 251  
savings account, or an individual retirement account or 252  
individual retirement annuity, or preexisting college savings 253  
plan or program account offered by the Ohio tuition trust 254  
authority under Chapter 3334. of the Revised Code, as designated 255  
by the taxpayer, when the taxpayer files the annual return 256

required by this section electronically. 257

(L) If, for the taxable year, a nonresident or trust that 258  
is the owner of an electing pass-through entity, as defined in 259  
section 5747.38 of the Revised Code, does not have Ohio adjusted 260  
gross income or, in the case of a trust, modified Ohio taxable 261  
income other than from one or more electing pass-through 262  
entities, the nonresident or trust shall not be required to file 263  
an annual return under this section. Nothing in this division 264  
precludes such an owner from filing the annual return under this 265  
section, utilizing the refundable credit under section 5747.39 266  
of the Revised Code equal to the owner's proportionate share of 267  
the tax levied under section 5747.38 of the Revised Code and 268  
paid by the electing pass-through entity, and making the payment 269  
of taxes imposed under section 5747.02 of the Revised Code. 270

(M) The tax commissioner may adopt rules to administer 271  
this section. 272

**Sec. 5747.74.** (A) As used in this section: 273

(1) "Eligible child care expenses" means any amount that 274  
would qualify as an employment-related expense under section 21 275  
of the Internal Revenue Code paid by the taxpayer during the 276  
taxable year for the care of a qualifying child, without regard 277  
to any limitation under that section on the amount of expenses 278  
allowable or the income of the taxpayer. 279

(2) "Federal poverty line" has the same meaning as in 280  
section 5104.01 of the Revised Code. 281

(3) "Qualifying child" means a dependent of the taxpayer 282  
who has not attained age thirteen. 283

(4) "Household income" means the sum of the modified 284  
adjusted gross income of the taxpayer and every other individual 285

in the taxpayer's family considered in determining the federal 286  
poverty line applicable to the taxpayer. 287

(B) Except as provided in division (D) of this section, 288  
there is hereby allowed a refundable credit against a taxpayer's 289  
aggregate tax liability under section 5747.02 of the Revised 290  
Code equal to the amount calculated under division (C) of this 291  
section. The credit shall be claimed in the order required under 292  
section 5747.98 of the Revised Code. The tax commissioner may 293  
request that a taxpayer claiming a credit under this section 294  
furnish information as is necessary to support the claim for the 295  
credit under this section, and no credit shall be allowed unless 296  
the requested information is provided. If the credit allowed for 297  
any taxable year exceeds the aggregate amount of tax otherwise 298  
due under section 5747.02 of the Revised Code, after allowing 299  
for any other credits preceding the credit in the order 300  
prescribed by section 5747.98 of the Revised Code, the excess 301  
shall be refunded to the taxpayer. 302

(C) For a taxpayer with a household income equal to or 303  
less than seven hundred fifty per cent of the federal poverty 304  
line for the taxable year, the amount of the credit available 305  
under this section, subject to division (D) of this section, 306  
shall equal the taxpayer's eligible child care expenses 307  
multiplied by the applicable credit percentage from the 308  
following table relative to the taxpayer's household income: 309

310

1

2

A Federal poverty line

Credit percentage

B	<u>At or below 450%</u>	<u>100%</u>
C	<u>451 to 500%</u>	<u>85%</u>
D	<u>501 to 550%</u>	<u>70%</u>
E	<u>551 to 600%</u>	<u>55%</u>
F	<u>601 to 650%</u>	<u>40%</u>
G	<u>651 to 700%</u>	<u>25%</u>
H	<u>701 to 750%</u>	<u>10%</u>

(D) A taxpayer claiming the credit under this section 311  
shall not claim the credit authorized under section 5747.054 of 312  
the Revised Code for the taxable year on the basis of eligible 313  
child care expenses. The total amount of credits that may be 314  
claimed under this section for all taxpayers in a taxpayer's 315  
family in a taxable year shall not exceed three thousand dollars 316  
for one qualifying child or six thousand dollars for two or more 317  
qualifying children in that family. 318

**Sec. 5747.98.** (A) To provide a uniform procedure for 319  
calculating a taxpayer's aggregate tax liability under section 320  
5747.02 of the Revised Code, a taxpayer shall claim any credits 321  
to which the taxpayer is entitled in the following order: 322

Either the retirement income credit under division (B) of 323  
section 5747.055 of the Revised Code or the lump sum retirement 324  
income credits under divisions (C), (D), and (E) of that 325  
section; 326

Either the senior citizen credit under division (F) of 327  
section 5747.055 of the Revised Code or the lump sum 328

distribution credit under division (G) of that section;	329
The dependent care credit under section 5747.054 of the Revised Code;	330 331
The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	332 333
The campaign contribution credit under section 5747.29 of the Revised Code;	334 335
The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	336 337
The joint filing credit under division <del>(G)</del> <u>(E)</u> of section 5747.05 of the Revised Code;	338 339
The earned income credit under section 5747.71 of the Revised Code;	340 341
The nonrefundable credit for education expenses under section 5747.72 of the Revised Code;	342 343
The nonrefundable credit for donations to scholarship granting organizations under section 5747.73 of the Revised Code;	344 345 346
The nonrefundable credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	347 348 349
The nonrefundable vocational job credit under section 5747.057 of the Revised Code;	350 351
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	352 353
The enterprise zone credit under section 5709.66 of the Revised Code;	354 355

The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;	356 357 358
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	359 360
The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;	361 362
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	363 364 365
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	366 367
The small business investment credit under section 5747.81 of the Revised Code;	368 369
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	370 371
The opportunity zone investment credit under section 122.84 of the Revised Code;	372 373
The enterprise zone credits under section 5709.65 of the Revised Code;	374 375
The research and development credit under section 5747.331 of the Revised Code;	376 377
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	378 379
The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;	380 381
The nonrefundable affordable single-family home credit	382

under section 5747.84 of the Revised Code;	383
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	384 385
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	386 387
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	388 389
The refundable credit for film and theater capital improvement projects under section 5747.67 of the Revised Code;	390 391
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	392 393 394
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	395 396
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	397 398 399
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;	400 401 402
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	403 404
<u>The refundable child care expense credit under section 5747.74 of the Revised Code;</u>	405 406
The refundable credit under section 5747.39 of the Revised Code for taxes levied under section 5747.38 of the Revised Code paid by an electing pass-through entity.	407 408 409

(B) For any credit, except the refundable credits 410  
enumerated in this section and the credit granted under division 411  
(H) of section 5747.08 of the Revised Code, the amount of the 412  
credit for a taxable year shall not exceed the taxpayer's 413  
aggregate amount of tax due under section 5747.02 of the Revised 414  
Code, after allowing for any other credit that precedes it in 415  
the order required under this section. Any excess amount of a 416  
particular credit may be carried forward if authorized under the 417  
section creating that credit. Nothing in this chapter shall be 418  
construed to allow a taxpayer to claim, directly or indirectly, 419  
a credit more than once for a taxable year. 420

**Section 2.** That existing sections 5747.08 and 5747.98 of 421  
the Revised Code are hereby repealed. 422

**Section 3.** The enactment by this act of section 5747.74 of 423  
the Revised Code applies to taxable years beginning on or after 424  
the effective date of this section. 425