

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 498**

**Representative Fraizer**

**Cosponsors: Representatives Carfagna, Ginter, Hambley, Kent, Lipps**

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**A BILL**

To amend sections 5747.08 and 5747.98 and to enact 1  
section 5747.85 of the Revised Code to authorize 2  
a refundable income tax credit for disability- 3  
related home 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 5747.85 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 required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

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

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

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

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

the entity's filing a return in accordance with this section.	79
Such a pass-through entity also shall make the filing and	80
payment of estimated taxes on behalf of the pass-through entity	81
investors other than an investor that is a person subject to the	82
tax imposed under section 5733.06 of the Revised Code.	83
(2) For the purposes of this section, "business credits"	84
means the credits listed in section 5747.98 of the Revised Code	85
excluding the following credits:	86
(a) The retirement income credit under division (B) of	87
section 5747.055 of the Revised Code;	88
(b) The senior citizen credit under division (F) of	89
section 5747.055 of the Revised Code;	90
(c) The lump sum distribution credit under division (G) of	91
section 5747.055 of the Revised Code;	92
(d) The dependent care credit under section 5747.054 of	93
the Revised Code;	94
(e) The lump sum retirement income credit under division	95
(C) of section 5747.055 of the Revised Code;	96
(f) The lump sum retirement income credit under division	97
(D) of section 5747.055 of the Revised Code;	98
(g) The lump sum retirement income credit under division	99
(E) of section 5747.055 of the Revised Code;	100
(h) The credit for displaced workers who pay for job	101
training under section 5747.27 of the Revised Code;	102
(i) The twenty-dollar personal exemption credit under	103
section 5747.022 of the Revised Code;	104
(j) The joint filing credit under division (E) of section	105

5747.05 of the Revised Code;	106
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	107
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	108
(m) The earned income tax credit under section 5747.71 of the Revised Code;	109
(n) The lead abatement credit under section 5747.26 of the Revised Code;	110
(o) The credit for disability-related home expenses under section 5747.85 of the Revised Code.	111
(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.	112
(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 correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through	113
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entity's making the election provided for under division (D) of 135  
this section. For the purposes of division (D) of this section, 136  
"correct tax due" means the tax that would have been paid by the 137  
pass-through entity had the single return been filed in a manner 138  
reflecting the commissioner's findings. Nothing in division (D) 139  
of this section shall be construed to make or hold a pass- 140  
through entity liable for tax attributable to a pass-through 141  
entity investor's income from a source other than the pass- 142  
through entity electing to file the single return. 143

(E) If a husband and wife file a joint federal income tax 144  
return for a taxable year, they shall file a joint return under 145  
this section for that taxable year, and their liabilities are 146  
joint and several, but, if the federal income tax liability of 147  
either spouse is determined on a separate federal income tax 148  
return, they shall file separate returns under this section. 149

If either spouse is not required to file a federal income 150  
tax return and either or both are required to file a return 151  
pursuant to this chapter, they may elect to file separate or 152  
joint returns, and, pursuant to that election, their liabilities 153  
are separate or joint and several. If a husband and wife file 154  
separate returns pursuant to this chapter, each must claim the 155  
taxpayer's own exemption, but not both, as authorized under 156  
section 5747.02 of the Revised Code on the taxpayer's own 157  
return. 158

(F) Each return or notice required to be filed under this 159  
section shall contain the signature of the taxpayer or the 160  
taxpayer's duly authorized agent and of the person who prepared 161  
the return for the taxpayer, and shall include the taxpayer's 162  
social security number. Each return shall be verified by a 163  
declaration under the penalties of perjury. The tax commissioner 164

shall prescribe the form that the signature and declaration 165  
shall take. 166

(G) Each return or notice required to be filed under this 167  
section shall be made and filed as required by section 5747.04 168  
of the Revised Code, on or before the fifteenth day of April of 169  
each year, on forms that the tax commissioner shall prescribe, 170  
together with remittance made payable to the treasurer of state 171  
in the combined amount of the state and all school district 172  
income taxes shown to be due on the form. 173

Upon good cause shown, the commissioner may extend the 174  
period for filing any notice or return required to be filed 175  
under this section and may adopt rules relating to extensions. 176  
If the extension results in an extension of time for the payment 177  
of any state or school district income tax liability with 178  
respect to which the return is filed, the taxpayer shall pay at 179  
the time the tax liability is paid an amount of interest 180  
computed at the rate per annum prescribed by section 5703.47 of 181  
the Revised Code on that liability from the time that payment is 182  
due without extension to the time of actual payment. Except as 183  
provided in section 5747.132 of the Revised Code, in addition to 184  
all other interest charges and penalties, all taxes imposed 185  
under this chapter or Chapter 5748. of the Revised Code and 186  
remaining unpaid after they become due, except combined amounts 187  
due of one dollar or less, bear interest at the rate per annum 188  
prescribed by section 5703.47 of the Revised Code until paid or 189  
until the day an assessment is issued under section 5747.13 of 190  
the Revised Code, whichever occurs first. 191

If the commissioner considers it necessary in order to 192  
ensure the payment of the tax imposed by section 5747.02 of the 193  
Revised Code or any tax imposed under Chapter 5748. of the 194

Revised Code, the commissioner may require returns and payments 195  
to be made otherwise than as provided in this section. 196

To the extent that any provision in this division 197  
conflicts with any provision in section 5747.026 of the Revised 198  
Code, the provision in that section prevails. 199

(H) The amounts withheld by an employer pursuant to 200  
section 5747.06 of the Revised Code, a casino operator pursuant 201  
to section 5747.063 of the Revised Code, or a lottery sales 202  
agent pursuant to section 5747.064 of the Revised Code shall be 203  
allowed to the recipient of the compensation casino winnings, or 204  
lottery prize award as credits against payment of the 205  
appropriate taxes imposed on the recipient by section 5747.02 206  
and under Chapter 5748. of the Revised Code. 207

(I) If a pass-through entity elects to file a single 208  
return under division (D) of this section and if any investor is 209  
required to file the annual return and make the payment of taxes 210  
required by this chapter on account of the investor's other 211  
income that is not included in a single return filed by a pass- 212  
through entity or any other investor elects to file the annual 213  
return, the investor is entitled to a refundable credit equal to 214  
the investor's proportionate share of the tax paid by the pass- 215  
through entity on behalf of the investor. The investor shall 216  
claim the credit for the investor's taxable year in which or 217  
with which ends the taxable year of the pass-through entity. 218  
Nothing in this chapter shall be construed to allow any credit 219  
provided in this chapter to be claimed more than once. For the 220  
purpose of computing any interest, penalty, or interest penalty, 221  
the investor shall be deemed to have paid the refundable credit 222  
provided by this division on the day that the pass-through 223  
entity paid the estimated tax or the tax giving rise to the 224



credit. 225

(J) The tax commissioner shall ensure that each return 226  
required to be filed under this section includes a box that the 227  
taxpayer may check to authorize a paid tax preparer who prepared 228  
the return to communicate with the department of taxation about 229  
matters pertaining to the return. The return or instructions 230  
accompanying the return shall indicate that by checking the box 231  
the taxpayer authorizes the department of taxation to contact 232  
the preparer concerning questions that arise during the 233  
processing of the return and authorizes the preparer only to 234  
provide the department with information that is missing from the 235  
return, to contact the department for information about the 236  
processing of the return or the status of the taxpayer's refund 237  
or payments, and to respond to notices about mathematical 238  
errors, offsets, or return preparation that the taxpayer has 239  
received from the department and has shown to the preparer. 240

(K) The tax commissioner shall permit individual taxpayers 241  
to instruct the department of taxation to cause any refund of 242  
overpaid taxes to be deposited directly into a checking account, 243  
savings account, or an individual retirement account or 244  
individual retirement annuity, or preexisting college savings 245  
plan or program account offered by the Ohio tuition trust 246  
authority under Chapter 3334. of the Revised Code, as designated 247  
by the taxpayer, when the taxpayer files the annual return 248  
required by this section electronically. 249

(L) A taxpayer claiming the deduction under division (A) 250  
(31) of section 5747.01 of the Revised Code for a taxable year 251  
shall indicate on the taxpayer's return the north American 252  
industry classification system code of each business or 253  
professional activity from which the taxpayer's business income 254

was derived. The tax commissioner shall provide space on the 255  
return for this purpose and shall prescribe, by rule adopted in 256  
accordance with Chapter 119. of the Revised Code, the manner by 257  
which such a taxpayer shall determine the taxpayer's proper 258  
classification codes and business or professional activities 259  
from which the taxpayer derives business income. 260

(M) The tax commissioner may adopt rules to administer 261  
this section. 262

**Sec. 5747.85.** (A) As used in this section: 263

(1) "Activity of daily living" has the same meaning as in 264  
section 7702B of the Internal Revenue Code. 265

(2) "Qualifying taxpayer" means a taxpayer who, or whose 266  
spouse or dependent, is either over fifty-nine years of age on 267  
the last day of the taxpayer's taxable year or permanently 268  
disabled with documentation from a licensed health care provider 269  
certifying that they require assistance for at least one 270  
activity of daily living. 271

(3) "Disability-related home expenses" means any expenses 272  
incurred for the purpose of facilitating activities of daily 273  
living within or about a taxpayer's residence and increasing the 274  
amount of time the taxpayer or taxpayer's spouse or dependent 275  
may continue to inhabit the residence before needing to relocate 276  
to an assisted living facility. Disability-related home expenses 277  
include the following: 278

(a) Modifications to the taxpayer's existing residence, 279  
provided that the modification is designed to improve 280  
accessibility and provide universal visitability in accordance 281  
with guidelines established by the department of aging. 282  
Modifications may include, but are not limited to, the 283

<u>installation of wheelchair ramps, bathtub bars, and zero-step</u>	284
<u>entrances.</u>	285
<u>(b) Expenses related to respite care, adult day care,</u>	286
<u>hiring a home aide or personal care attendant, or assistive</u>	287
<u>technology necessary for the care of the taxpayer or taxpayer's</u>	288
<u>spouse or dependent.</u>	289
<u>"Disability-related home expenses" does not include</u>	290
<u>general household maintenance expenses, such as expenses related</u>	291
<u>to painting, plumbing, electrical repairs, or exterior</u>	292
<u>maintenance.</u>	293
<u>(4) "Licensed health care professional" means any of the</u>	294
<u>following:</u>	295
<u>(a) A physician authorized under Chapter 4731. of the</u>	296
<u>Revised Code to practice medicine or osteopathic medicine;</u>	297
<u>(b) A registered nurse, advanced practice registered</u>	298
<u>nurse, or licensed practical nurse licensed under Chapter 4723.</u>	299
<u>of the Revised Code;</u>	300
<u>(c) A physician assistant licensed under Chapter 4730. of</u>	301
<u>the Revised Code.</u>	302
<u>(B) Subject to division (C) of this section, there is</u>	303
<u>hereby allowed a refundable credit against the aggregate tax</u>	304
<u>liability under section 5747.02 of the Revised Code for a</u>	305
<u>qualifying taxpayer who, or whose spouse, pays or incurs the</u>	306
<u>costs of disability-related home expenses during the taxable</u>	307
<u>year. The amount of the credit shall equal the cost of the</u>	308
<u>disability-related home expenses but shall not exceed five</u>	309
<u>thousand dollars.</u>	310
<u>The credit allowed by this section shall be claimed in the</u>	311

order prescribed by section 5747.98 of the Revised Code. If the 312  
amount of the credit exceeds the tax otherwise due for the 313  
taxable year after allowing for other credits preceding the 314  
credit in the order prescribed by that section, the excess shall 315  
be refunded to the taxpayer. 316

(C) To receive a credit under this section, a taxpayer 317  
shall submit an application to the department of aging. The 318  
department shall prescribe the form of the application. Upon 319  
receipt of an application, the department shall approve the 320  
application if each of the following apply: 321

(1) Granting the credit would not cause the total amount 322  
of credits approved under this section for the calendar year to 323  
exceed ten million dollars. 324

(2) The department has not previously approved a credit 325  
application by the same taxpayer. 326

(3) The credit application does not relate to a 327  
transaction between a taxpayer and a member of the taxpayer's 328  
family or between a pass-through entity and a person that holds, 329  
directly or indirectly, an ownership interest in the entity. As 330  
used in this division, "family" has the same meaning as in 331  
section 5747.011 of the Revised Code. 332

After the department either approves or rejects the 333  
application, the department shall provide notice to the taxpayer 334  
in the form of a certificate sent by mail. 335

**Sec. 5747.98.** (A) To provide a uniform procedure for 336  
calculating a taxpayer's aggregate tax liability under section 337  
5747.02 of the Revised Code, a taxpayer shall claim any credits 338  
to which the taxpayer is entitled in the following order: 339

(1) Either the retirement income credit under division (B) 340

of section 5747.055 of the Revised Code or the lump sum	341
retirement income credits under divisions (C), (D), and (E) of	342
that section;	343
(2) Either the senior citizen credit under division (F) of	344
section 5747.055 of the Revised Code or the lump sum	345
distribution credit under division (G) of that section;	346
(3) The dependent care credit under section 5747.054 of	347
the Revised Code;	348
(4) The credit for displaced workers who pay for job	349
training under section 5747.27 of the Revised Code;	350
(5) The twenty-dollar personal exemption credit under	351
section 5747.022 of the Revised Code;	352
(6) The joint filing credit under division (G) of section	353
5747.05 of the Revised Code;	354
(7) The earned income credit under section 5747.71 of the	355
Revised Code;	356
(8) The credit for adoption of a minor child under section	357
5747.37 of the Revised Code;	358
(9) The nonrefundable job retention credit under division	359
(B) of section 5747.058 of the Revised Code;	360
(10) The enterprise zone credit under section 5709.66 of	361
the Revised Code;	362
(11) The ethanol plant investment credit under section	363
5747.75 of the Revised Code;	364
(12) The credit for purchases of qualifying grape	365
production property under section 5747.28 of the Revised Code;	366
(13) The small business investment credit under section	367

5747.81 of the Revised Code;	368
(14) The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	369 370
(15) The opportunity zone investment credit under section 122.84 of the Revised Code;	371 372
(16) The enterprise zone credits under section 5709.65 of the Revised Code;	373 374
(17) The research and development credit under section 5747.331 of the Revised Code;	375 376
(18) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	377 378
(19) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	379 380
(20) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	381 382
(21) The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	383 384
(22) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	385 386 387
(23) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	388 389
(24) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	390 391 392
(25) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture	393 394

capital program under sections 150.01 to 150.10 of the Revised Code;	395 396
(26) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	397 398
<u>(27) The refundable credit for disability-related home expenses under section 5747.85 of the Revised Code.</u>	399 400
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the taxpayer's aggregate amount of tax due under section 5747.02 of the Revised Code, 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.	401 402 403 404 405 406 407 408 409 410 411
<b>Section 2.</b> That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	412 413
<b>Section 3.</b> The amendment or enactment by this act of sections 5747.08, 5747.85, and 5747.98 of the Revised Code shall apply to taxable years beginning on or after January 1, 2021.	414 415 416