

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 38

Senator Schaffer

Cosponsors: Senators Fedor, Yuko, Wilson, Brenner



A BILL

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.64 of the Revised Code to allow an 2
income tax credit for law enforcement officials 3
and volunteer firefighters who purchase safety 4
or protective items to be used in the course of 5
official law enforcement or firefighting 6
activities. 7

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

Section 1. That sections 5747.08 and 5747.98 be amended 8
and section 5747.64 of the Revised Code be enacted to read as 9
follows: 10

Sec. 5747.08. An annual return with respect to the tax 11
imposed by section 5747.02 of the Revised Code and each tax 12
imposed under Chapter 5748. of the Revised Code shall be made by 13
every taxpayer for any taxable year for which the taxpayer is 14
liable for the tax imposed by that section or under that 15
chapter, unless the total credits allowed under division (E) of 16
section 5747.05 and divisions (F) and (G) of section 5747.055 of 17
the Revised Code for the year are equal to or exceed the tax 18

imposed by section 5747.02 of the Revised Code, in which case no 19
return shall be required unless the taxpayer is liable for a tax 20
imposed pursuant to Chapter 5748. of the Revised Code. 21

(A) If an individual is deceased, any return or notice 22
required of that individual under this chapter shall be made and 23
filed by that decedent's executor, administrator, or other 24
person charged with the property of that decedent. 25

(B) If an individual is unable to make a return or notice 26
required by this chapter, the return or notice required of that 27
individual shall be made and filed by the individual's duly 28
authorized agent, guardian, conservator, fiduciary, or other 29
person charged with the care of the person or property of that 30
individual. 31

(C) Returns or notices required of an estate or a trust 32
shall be made and filed by the fiduciary of the estate or trust. 33

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

in section 5747.02 of the Revised Code for the taxable year for 49
which the return is filed; and are entitled to only their 50
distributive share of the business credits as defined in 51
division (D) (2) of this section. A single check drawn by the 52
pass-through entity shall accompany the return in full payment 53
of the tax due, as shown on the single return, for such 54
investors, other than investors who are persons subject to the 55
tax imposed under section 5733.06 of the Revised Code. 56

(b) (i) A pass-through entity shall not include in such a 57
single return any investor that is a trust to the extent that 58
any direct or indirect current, future, or contingent 59
beneficiary of the trust is a person subject to the tax imposed 60
under section 5733.06 of the Revised Code. 61

(ii) A pass-through entity shall not include in such a 62
single return any investor that is itself a pass-through entity 63
to the extent that any direct or indirect investor in the second 64
pass-through entity is a person subject to the tax imposed under 65
section 5733.06 of the Revised Code. 66

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

be construed to provide to such an investor or pass-through 79
entity any additional deduction or credit, other than the credit 80
provided by division (I) of this section, solely on account of 81
the entity's filing a return in accordance with this section. 82
Such a pass-through entity also shall make the filing and 83
payment of estimated taxes on behalf of the pass-through entity 84
investors other than an investor that is a person subject to the 85
tax imposed under section 5733.06 of the Revised Code. 86

(2) For the purposes of this section, "business credits" 87
means the credits listed in section 5747.98 of the Revised Code 88
excluding the following credits: 89

(a) The retirement income credit under division (B) of 90
section 5747.055 of the Revised Code; 91

(b) The senior citizen credit under division (F) of 92
section 5747.055 of the Revised Code; 93

(c) The lump sum distribution credit under division (G) of 94
section 5747.055 of the Revised Code; 95

(d) The dependent care credit under section 5747.054 of 96
the Revised Code; 97

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

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

(g) The lump sum retirement income credit under division 102
(E) of section 5747.055 of the Revised Code; 103

(h) The credit for displaced workers who pay for job 104
training under section 5747.27 of the Revised Code; 105

(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	106 107
(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	108 109
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	110 111
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	112 113
(m) The earned income tax credit under section 5747.71 of the Revised Code;	114 115
(n) The lead abatement credit under section 5747.26 of the Revised Code;	116 117
<u>(o) The credit for law enforcement officer or volunteer firefighter purchases under section 5747.64 of the Revised Code.</u>	118 119
(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.	120 121 122 123 124 125 126 127
(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	128 129 130 131 132 133

that return. Nothing in this division shall be construed to 134
limit or alter the liability, if any, imposed on pass-through 135
entity investors for unpaid or underpaid taxes, interest, 136
interest penalty, or penalties as a result of the pass-through 137
entity's making the election provided for under division (D) of 138
this section. For the purposes of division (D) of this section, 139
"correct tax due" means the tax that would have been paid by the 140
pass-through entity had the single return been filed in a manner 141
reflecting the commissioner's findings. Nothing in division (D) 142
of this section shall be construed to make or hold a pass- 143
through entity liable for tax attributable to a pass-through 144
entity investor's income from a source other than the pass- 145
through entity electing to file the single return. 146

(E) If a husband and wife file a joint federal income tax 147
return for a taxable year, they shall file a joint return under 148
this section for that taxable year, and their liabilities are 149
joint and several, but, if the federal income tax liability of 150
either spouse is determined on a separate federal income tax 151
return, they shall file separate returns under this section. 152

If either spouse is not required to file a federal income 153
tax return and either or both are required to file a return 154
pursuant to this chapter, they may elect to file separate or 155
joint returns, and, pursuant to that election, their liabilities 156
are separate or joint and several. If a husband and wife file 157
separate returns pursuant to this chapter, each must claim the 158
taxpayer's own exemption, but not both, as authorized under 159
section 5747.02 of the Revised Code on the taxpayer's own 160
return. 161

(F) Each return or notice required to be filed under this 162
section shall contain the signature of the taxpayer or the 163

taxpayer's duly authorized agent and of the person who prepared 164
the return for the taxpayer, and shall include the taxpayer's 165
social security number. Each return shall be verified by a 166
declaration under the penalties of perjury. The tax commissioner 167
shall prescribe the form that the signature and declaration 168
shall take. 169

(G) Each return or notice required to be filed under this 170
section shall be made and filed as required by section 5747.04 171
of the Revised Code, on or before the fifteenth day of April of 172
each year, on forms that the tax commissioner shall prescribe, 173
together with remittance made payable to the treasurer of state 174
in the combined amount of the state and all school district 175
income taxes shown to be due on the form. 176

Upon good cause shown, the commissioner may extend the 177
period for filing any notice or return required to be filed 178
under this section and may adopt rules relating to extensions. 179
If the extension results in an extension of time for the payment 180
of any state or school district income tax liability with 181
respect to which the return is filed, the taxpayer shall pay at 182
the time the tax liability is paid an amount of interest 183
computed at the rate per annum prescribed by section 5703.47 of 184
the Revised Code on that liability from the time that payment is 185
due without extension to the time of actual payment. Except as 186
provided in section 5747.132 of the Revised Code, in addition to 187
all other interest charges and penalties, all taxes imposed 188
under this chapter or Chapter 5748. of the Revised Code and 189
remaining unpaid after they become due, except combined amounts 190
due of one dollar or less, bear interest at the rate per annum 191
prescribed by section 5703.47 of the Revised Code until paid or 192
until the day an assessment is issued under section 5747.13 of 193
the Revised Code, whichever occurs first. 194

If the commissioner considers it necessary in order to 195
ensure the payment of the tax imposed by section 5747.02 of the 196
Revised Code or any tax imposed under Chapter 5748. of the 197
Revised Code, the commissioner may require returns and payments 198
to be made otherwise than as provided in this section. 199

To the extent that any provision in this division 200
conflicts with any provision in section 5747.026 of the Revised 201
Code, the provision in that section prevails. 202

(H) The amounts withheld by an employer pursuant to 203
section 5747.06 of the Revised Code, a casino operator pursuant 204
to section 5747.063 of the Revised Code, or a lottery sales 205
agent pursuant to section 5747.064 of the Revised Code shall be 206
allowed to the recipient of the compensation casino winnings, or 207
lottery prize award as credits against payment of the 208
appropriate taxes imposed on the recipient by section 5747.02 209
and under Chapter 5748. of the Revised Code. 210

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

the investor shall be deemed to have paid the refundable credit 225
provided by this division on the day that the pass-through 226
entity paid the estimated tax or the tax giving rise to the 227
credit. 228

(J) The tax commissioner shall ensure that each return 229
required to be filed under this section includes a box that the 230
taxpayer may check to authorize a paid tax preparer who prepared 231
the return to communicate with the department of taxation about 232
matters pertaining to the return. The return or instructions 233
accompanying the return shall indicate that by checking the box 234
the taxpayer authorizes the department of taxation to contact 235
the preparer concerning questions that arise during the 236
processing of the return and authorizes the preparer only to 237
provide the department with information that is missing from the 238
return, to contact the department for information about the 239
processing of the return or the status of the taxpayer's refund 240
or payments, and to respond to notices about mathematical 241
errors, offsets, or return preparation that the taxpayer has 242
received from the department and has shown to the preparer. 243

(K) The tax commissioner shall permit individual taxpayers 244
to instruct the department of taxation to cause any refund of 245
overpaid taxes to be deposited directly into a checking account, 246
savings account, or an individual retirement account or 247
individual retirement annuity, or preexisting college savings 248
plan or program account offered by the Ohio tuition trust 249
authority under Chapter 3334. of the Revised Code, as designated 250
by the taxpayer, when the taxpayer files the annual return 251
required by this section electronically. 252

(L) A taxpayer claiming the deduction under division ~~(A)~~ 253
~~(31)~~ (A) (28) of section 5747.01 of the Revised Code for a 254

taxable year shall indicate on the taxpayer's return the north 255
American industry classification system code of each business or 256
professional activity from which the taxpayer's business income 257
was derived. The tax commissioner shall provide space on the 258
return for this purpose and shall prescribe, by rule adopted in 259
accordance with Chapter 119. of the Revised Code, the manner by 260
which such a taxpayer shall determine the taxpayer's proper 261
classification codes and business or professional activities 262
from which the taxpayer derives business income. 263

(M) The tax commissioner may adopt rules to administer 264
this section. 265

Sec. 5747.64. (A) As used in this section: 266

(1) "Law enforcement officer" means a sheriff, deputy 267
sheriff, constable, municipal police officer, police officer of 268
a township or joint township police district, marshal, deputy 269
marshal, or state highway patrolman, and also means any officer, 270
agent, or employee of the state or any of its agencies, 271
instrumentalities, or political subdivisions, upon whom, by 272
statute, the authority to arrest violators is conferred, when 273
the officer, agent, or employee is acting within the limits of 274
statutory authority. 275

(2) "Law enforcement agency" means any government entity 276
that is comprised of law enforcement officers authorized to 277
perform official law enforcement activities. 278

(3) "Law enforcement item" means any of the following 279
items, provided the item meets the requirements or 280
specifications for use prescribed by the law enforcement 281
officer's law enforcement agency: 282

(a) Uniforms, footwear, flashlights, and flashlight 283

<u>accessories;</u>	284
<u>(b) Weapons and related accessories;</u>	285
<u>(c) Protective equipment customarily used by law</u>	286
<u>enforcement officers to ensure the officer's safety from weapons</u>	287
<u>or hazardous materials, including body armor, body armor</u>	288
<u>carriers, helmets, shields, gloves, gas masks, respirators,</u>	289
<u>filters, dust masks, and protective coverall suits;</u>	290
<u>(d) Restraint items customarily used by law enforcement</u>	291
<u>officers to lawfully arrest or detain an individual, including</u>	292
<u>handcuffs;</u>	293
<u>(e) Telecommunications devices, including radios, cellular</u>	294
<u>phones, and microphones;</u>	295
<u>(f) Audio and visual devices customarily used by law</u>	296
<u>enforcement officers to record interactions between an officer</u>	297
<u>and a member of the public, including cameras and audio</u>	298
<u>recorders;</u>	299
<u>(g) Any other item used by a law enforcement officer in</u>	300
<u>carrying out official law enforcement activities if the cost of</u>	301
<u>the item to the officer is greater than the amount reimbursed</u>	302
<u>for the item by the officer's law enforcement agency pursuant to</u>	303
<u>that agency's policy on July 1, 2020.</u>	304
<u>(4) "Volunteer firefighter" means an individual who is</u>	305
<u>authorized to act as a firefighter under section 3737.66 of the</u>	306
<u>Revised Code and who serves as a firefighter in a volunteer</u>	307
<u>capacity for a nonprofit fire company or for the fire department</u>	308
<u>of a municipal corporation, township, township fire district, or</u>	309
<u>joint fire district.</u>	310
<u>(5) "Firefighting item" means any of the following items,</u>	311

provided the item meets the requirements or specifications for 312
use prescribed by the volunteer firefighter's nonprofit fire 313
company or fire department: 314

(a) Turnout coats, turnout pants, turnout boots, 315
suspenders, hoods, protective helmets, safety glasses, fire 316
gloves, extrication gloves, five-point breakaway reflective 317
traffic vests, ballistic vests, portable radios, radio pagers, 318
radio straps, flashlights, hand tools, self-rescue rope, and 319
uniforms; 320

(b) Any other item used by a volunteer firefighter in 321
carrying out official firefighting activities if the cost of the 322
item to the volunteer firefighter is greater than the amount 323
reimbursed for the item by the volunteer firefighter's nonprofit 324
fire company or fire department pursuant to the company's or 325
department's policy on July 1, 2020. 326

(B) There is hereby allowed a nonrefundable credit against 327
a taxpayer's aggregate tax liability under section 5747.02 of 328
the Revised Code for any amount spent by a taxpayer who is a law 329
enforcement officer or volunteer firefighter during the taxable 330
year on law enforcement items or firefighting items used by the 331
taxpayer to ensure the taxpayer's safety or protection while 332
performing official law enforcement or firefighting activities 333
reduced by any amount by which the taxpayer was reimbursed by 334
the taxpayer's law enforcement agency, nonprofit fire company, 335
or fire department for the cost of such items. The amount of the 336
credit shall not exceed five hundred dollars. The credit shall 337
be claimed in the order required under section 5747.98 of the 338
Revised Code. 339

The tax commissioner may request that a taxpayer claiming 340
a credit under this section furnish information as is necessary 341

to support the claim for the credit under this section, and no 342
credit shall be allowed unless the requested information is 343
provided. 344

Sec. 5747.98. (A) To provide a uniform procedure for 345
calculating a taxpayer's aggregate tax liability under section 346
5747.02 of the Revised Code, a taxpayer shall claim any credits 347
to which the taxpayer is entitled in the following order: 348

Either the retirement income credit under division (B) of 349
section 5747.055 of the Revised Code or the lump sum retirement 350
income credits under divisions (C), (D), and (E) of that 351
section; 352

Either the senior citizen credit under division (F) of 353
section 5747.055 of the Revised Code or the lump sum 354
distribution credit under division (G) of that section; 355

The dependent care credit under section 5747.054 of the 356
Revised Code; 357

The credit for displaced workers who pay for job training 358
under section 5747.27 of the Revised Code; 359

The campaign contribution credit under section 5747.29 of 360
the Revised Code; 361

The twenty-dollar personal exemption credit under section 362
5747.022 of the Revised Code; 363

The joint filing credit under division (G) of section 364
5747.05 of the Revised Code; 365

The earned income credit under section 5747.71 of the 366
Revised Code; 367

The credit for law enforcement officer or volunteer 368

<u>firefighter purchases under section 5747.64 of the Revised Code;</u>	369
The credit for adoption of a minor child under section 5747.37 of the Revised Code;	370 371
The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	372 373
The enterprise zone credit under section 5709.66 of the Revised Code;	374 375
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	376 377
The small business investment credit under section 5747.81 of the Revised Code;	378 379
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	380 381
The opportunity zone investment credit under section 122.84 of the Revised Code;	382 383
The enterprise zone credits under section 5709.65 of the Revised Code;	384 385
The research and development credit under section 5747.331 of the Revised Code;	386 387
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	388 389
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	390 391
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	392 393
The refundable motion picture and Broadway theatrical	394

production credit under section 5747.66 of the Revised Code;	395
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	396 397 398
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	399 400
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	401 402 403
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;	404 405 406
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	407 408
(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.	409 410 411 412 413 414 415 416 417 418 419
Section 2. That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	420 421
Section 3. The amendment or enactment by this act of	422

sections 5747.08, 5747.64, and 5747.98 of the Revised Code 423
applies to taxable years ending on or after the effective date 424
of this section. 425

Section 4. Pursuant to division (G) of section 5703.95 of 426
the Revised Code, which states that any bill introduced in the 427
House of Representatives or the Senate that proposes to enact or 428
modify one or more tax expenditures should include a statement 429
explaining the objectives of the tax expenditure or its 430
modification and the sponsor's intent in proposing the tax 431
expenditure or its modification: 432

The purpose of the tax credit authorized by this act is to 433
lead to greater safety of our officers who encounter great risks 434
protecting us since many police agencies do not reimburse for 435
safety gear. Care has been exercised during the drafting process 436
to ensure that expenses for gear are not duplicating or 437
supplanting what already is available from an officer's local 438
law enforcement department. 439

The purpose of the tax credit authorized by this act is 440
also to encourage Ohioans to become volunteer firefighters by 441
providing financial relief for the burdensome cost of gear for 442
the volunteer job. 443