

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 727

Representative Schuring

A BILL

To amend sections 5747.02 and 5747.98 and to enact 1
section 5747.74 of the Revised Code to authorize 2
an income tax credit for investments in an Ohio 3
Opportunity Zone. 4

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

Section 1. That sections 5747.02 and 5747.98 be amended 5
and section 5747.74 of the Revised Code be enacted to read as 6
follows: 7

Sec. 5747.02. (A) For the purpose of providing revenue for 8
the support of schools and local government functions, to 9
provide relief to property taxpayers, to provide revenue for the 10
general revenue fund, and to meet the expenses of administering 11
the tax levied by this chapter, there is hereby levied on every 12
individual, trust, and estate residing in or earning or 13
receiving income in this state, on every individual, trust, and 14
estate earning or receiving lottery winnings, prizes, or awards 15
pursuant to Chapter 3770. of the Revised Code, on every 16
individual, trust, and estate earning or receiving winnings on 17
casino gaming, and on every individual, trust, and estate 18
otherwise having nexus with or in this state under the 19

Constitution of the United States, an annual tax measured as 20
prescribed in divisions (A) (1) to (4) of this section. 21

(1) In the case of trusts, the tax imposed by this section 22
shall be measured by modified Ohio taxable income under division 23
(D) of this section and levied in the same amount as the tax is 24
imposed on estates as prescribed in division (A) (2) of this 25
section. 26

(2) In the case of estates, the tax imposed by this 27
section shall be measured by Ohio taxable income and levied at 28
the rate of seven thousand four hundred twenty-five ten- 29
thousandths per cent for the first ten thousand five hundred 30
dollars of such income and, for income in excess of that amount, 31
at the same rates prescribed in division (A) (3) of this section 32
for individuals. 33

(3) In the case of individuals, for taxable years 34
beginning in 2017 or thereafter, the tax imposed by this section 35
on income other than taxable business income shall be measured 36
by Ohio adjusted gross income, less taxable business income and 37
less an exemption for the taxpayer, the taxpayer's spouse, and 38
each dependent as provided in section 5747.025 of the Revised 39
Code. If the balance thus obtained is equal to or less than ten 40
thousand five hundred dollars, no tax shall be imposed on that 41
balance. If the balance thus obtained is greater than ten 42
thousand five hundred dollars, the tax is hereby levied as 43
follows: 44

OHIO ADJUSTED GROSS 45
INCOME LESS TAXABLE 46
BUSINESS INCOME AND EXEMPTIONS 47
(INDIVIDUALS) 48
OR 49

MODIFIED OHIO	50
TAXABLE INCOME (TRUSTS)	51
OR	52
OHIO TAXABLE INCOME (ESTATES) TAX	53
More than \$10,500 but \$77.96 plus 1.980% of the amount	54
not more than \$15,800 in excess of \$10,500	55
More than \$15,800 but \$182.90 plus 2.476% of the amount	56
not more than \$21,100 in excess of \$15,800	57
More than \$21,100 but \$314.13 plus 2.969% of the amount	58
not more than \$42,100 in excess of \$21,100	59
More than \$42,100 but \$937.62 plus 3.465% of the amount	60
not more than \$84,200 in excess of \$42,100	61
More than \$84,200 but \$2,396.39 plus 3.960% of the amount	62
not more than \$105,300 in excess of \$84,200	63
More than \$105,300 but \$3,231.95 plus 4.597% of the amount	64
not more than \$210,600 in excess of \$105,300	65
More than \$210,600 \$8,072.59 plus 4.997% of the amount	66
in excess of \$210,600	67
(4) (a) In the case of individuals, for taxable years	68
beginning in 2016 or thereafter, the tax imposed by this section	69
on taxable business income shall equal three per cent of the	70
result obtained by subtracting any amount allowed under division	71
(A) (4) (b) of this section from the individual's taxable business	72
income.	73
(b) If the exemptions allowed to an individual under	74
division (A) (3) of this section exceed the taxpayer's Ohio	75
adjusted gross income less taxable business income, the excess	76
shall be deducted from taxable business income before computing	77

the tax under division (A) (4) (a) of this section. 78

(5) Except as otherwise provided in this division, in 79
August of each year, the tax commissioner shall make a new 80
adjustment to the income amounts prescribed in divisions (A) (2) 81
and (3) of this section by multiplying the percentage increase 82
in the gross domestic product deflator computed that year under 83
section 5747.025 of the Revised Code by each of the income 84
amounts resulting from the adjustment under this division in the 85
preceding year, adding the resulting product to the 86
corresponding income amount resulting from the adjustment in the 87
preceding year, and rounding the resulting sum to the nearest 88
multiple of fifty dollars. The tax commissioner also shall 89
recompute each of the tax dollar amounts to the extent necessary 90
to reflect the new adjustment of the income amounts. To 91
recompute the tax dollar amount corresponding to the lowest tax 92
rate in division (A) (3) of this section, the commissioner shall 93
multiply the tax rate prescribed in division (A) (2) of this 94
section by the income amount specified in that division and as 95
adjusted according to this paragraph. The rates of taxation 96
shall not be adjusted. 97

The adjusted amounts apply to taxable years beginning in 98
the calendar year in which the adjustments are made and to 99
taxable years beginning in each ensuing calendar year until a 100
calendar year in which a new adjustment is made pursuant to this 101
division. The tax commissioner shall not make a new adjustment 102
in any year in which the amount resulting from the adjustment 103
would be less than the amount resulting from the adjustment in 104
the preceding year. 105

(B) If the director of budget and management makes a 106
certification to the tax commissioner under division (B) of 107

section 131.44 of the Revised Code, the amount of tax as 108
determined under divisions (A) (1) to (3) of this section shall 109
be reduced by the percentage prescribed in that certification 110
for taxable years beginning in the calendar year in which that 111
certification is made. 112

(C) The levy of this tax on income does not prevent a 113
municipal corporation, a joint economic development zone created 114
under section 715.691, or a joint economic development district 115
created under section 715.70, 715.71, or 715.72 of the Revised 116
Code from levying a tax on income. 117

(D) This division applies only to taxable years of a trust 118
beginning in 2002 or thereafter. 119

(1) The tax imposed by this section on a trust shall be 120
computed by multiplying the Ohio modified taxable income of the 121
trust by the rates prescribed by division (A) of this section. 122

(2) A resident trust may claim a credit against the tax 123
computed under division (D) of this section equal to the lesser 124
of (a) the tax paid to another state or the District of Columbia 125
on the resident trust's modified nonbusiness income, other than 126
the portion of the resident trust's nonbusiness income that is 127
qualifying investment income as defined in section 5747.012 of 128
the Revised Code, or (b) the effective tax rate, based on 129
modified Ohio taxable income, multiplied by the resident trust's 130
modified nonbusiness income other than the portion of the 131
resident trust's nonbusiness income that is qualifying 132
investment income. The credit applies before any other 133
applicable credits. 134

(3) The credits enumerated in divisions (A) (1) to ~~(9)~~ (8), 135
(10), and ~~(A) (18)~~ (19) to ~~(20)~~ (21) of section 5747.98 of the 136

Revised Code do not apply to a trust subject to division (D) of 137
this section. Any credits enumerated in other divisions of 138
section 5747.98 of the Revised Code apply to a trust subject to 139
division (D) of this section. To the extent that the trust 140
distributes income for the taxable year for which a credit is 141
available to the trust, the credit shall be shared by the trust 142
and its beneficiaries. The tax commissioner and the trust shall 143
be guided by applicable regulations of the United States 144
treasury regarding the sharing of credits. 145

(E) For the purposes of this section, "trust" means any 146
trust described in Subchapter J of Chapter 1 of the Internal 147
Revenue Code, excluding trusts that are not irrevocable as 148
defined in division (I) (3) (b) of section 5747.01 of the Revised 149
Code and that have no modified Ohio taxable income for the 150
taxable year, charitable remainder trusts, qualified funeral 151
trusts and preneed funeral contract trusts established pursuant 152
to sections 4717.31 to 4717.38 of the Revised Code that are not 153
qualified funeral trusts, endowment and perpetual care trusts, 154
qualified settlement trusts and funds, designated settlement 155
trusts and funds, and trusts exempted from taxation under 156
section 501(a) of the Internal Revenue Code. 157

(F) Nothing in division (A) (3) of this section shall 158
prohibit an individual with an Ohio adjusted gross income, less 159
taxable business income and exemptions, of ten thousand five 160
hundred dollars or less from filing a return under this chapter 161
to receive a refund of taxes withheld or to claim any refundable 162
credit allowed under this chapter. 163

Sec. 5747.74. (A) As used in this section, "Ohio qualified 164
opportunity fund" means a qualified opportunity fund that holds 165
one hundred per cent of its assets in qualified opportunity zone 166

property situated in a qualified opportunity zone designated in 167
this state under section 1400Z-1 of the Internal Revenue Code. 168
The percentage shall be determined by the average of the 169
percentage of qualified opportunity zone property held in the 170
fund as measured on the last day of the first six-month period 171
of the taxable year of the fund and on the last day of the 172
taxable year of the fund. 173

In the case of qualified opportunity zone property that is 174
qualified opportunity zone stock or qualified opportunity zone 175
partnership interest, the stock or interest is situated in a 176
qualified opportunity zone designated in this state only if, 177
during substantially all of the qualified opportunity fund's 178
holding period for such stock or interest, substantially all of 179
the use of the corporation's or partnership's tangible property 180
was in a qualified opportunity zone designated in this state. In 181
the case of qualified opportunity zone property that is 182
qualified opportunity zone business property, the property is 183
situated in a qualified opportunity zone designated in this 184
state only if, during substantially all of the fund's holding 185
period for such property, substantially all of the use of the 186
property was in a qualified opportunity zone designated in this 187
state. 188

(B) A nonrefundable credit is allowed against the 189
aggregate tax liability of a taxpayer that invests two hundred 190
fifty thousand dollars or more during the taxable year in an 191
Ohio qualified opportunity fund. The credit shall be claimed for 192
the taxable year in which the investment is made, and shall 193
equal ten per cent of the amount of that investment. 194

The credit shall be claimed in the order prescribed by 195
section 5747.98 of the Revised Code. Nothing in this section 196

limits or disallows pass-through treatment of the credit if the 197
investment described in this division is made by a pass-through 198
entity. 199

Sec. 5747.98. (A) To provide a uniform procedure for 200
calculating a taxpayer's aggregate tax liability under section 201
5747.02 of the Revised Code, a taxpayer shall claim any credits 202
to which the taxpayer is entitled in the following order: 203

(1) Either the retirement income credit under division (B) 204
of section 5747.055 of the Revised Code or the lump sum 205
retirement income credits under divisions (C), (D), and (E) of 206
that section; 207

(2) Either the senior citizen credit under division (F) of 208
section 5747.055 of the Revised Code or the lump sum 209
distribution credit under division (G) of that section; 210

(3) The dependent care credit under section 5747.054 of 211
the Revised Code; 212

(4) The credit for displaced workers who pay for job 213
training under section 5747.27 of the Revised Code; 214

(5) The campaign contribution credit under section 5747.29 215
of the Revised Code; 216

(6) The twenty-dollar personal exemption credit under 217
section 5747.022 of the Revised Code; 218

(7) The joint filing credit under division (G) of section 219
5747.05 of the Revised Code; 220

(8) The earned income credit under section 5747.71 of the 221
Revised Code; 222

(9) The credit for contributions to a qualified 223

<u>opportunity fund under section 5747.74 of the Revised Code;</u>	224
<u>(10)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	225 226
(10) <u>(11)</u> The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	227 228
(11) <u>(12)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	229 230
(12) <u>(13)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	231 232
(13) <u>(14)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	233 234
(14) <u>(15)</u> The small business investment credit under section 5747.81 of the Revised Code;	235 236
(15) <u>(16)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	237 238
(16) <u>(17)</u> The research and development credit under section 5747.331 of the Revised Code;	239 240
(17) <u>(18)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	241 242
(18) <u>(19)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	243 244
(19) <u>(20)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	245 246
(20) <u>(21)</u> The refundable motion picture production credit under section 5747.66 of the Revised Code;	247 248
(21) <u>(22)</u> The refundable jobs creation credit or job	249

retention credit under division (A) of section 5747.058 of the Revised Code;	250 251
(22) <u>(23)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	252 253 254
(23) <u>(24)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	255 256 257
(24) <u>(25)</u> 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;	258 259 260 261
(25) <u>(26)</u> The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	262 263
(26) <u>(27)</u> The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	264 265 266
(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.	267 268 269 270 271 272 273 274 275 276 277
Section 2. That existing sections 5747.02 and 5747.98 of	278

the Revised Code are hereby repealed.

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