

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 701

Representatives Sweeney, Davis

**Cosponsors: Representatives Addison, Upchurch, Russo, Brent, Miranda, West,
Denson, Sobecki, Miller, A., Weinstein**

A BILL

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.82 of the Revised Code to allow a 2
refundable income tax credit for the purchase of 3
infant or toddler formula. 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 5747.82 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;	107 108
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	109 110
(m) The earned income tax credit under section 5747.71 of the Revised Code;	111 112
(n) The lead abatement credit under section 5747.26 of the Revised Code;	113 114
(o) The credit for education expenses under section 5747.72 of the Revised Code;	115 116
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	117 118
<u>(q) The credit for the purchase of infant or toddler formula under section 5747.82 of the Revised Code.</u>	119 120
(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.	121 122 123 124 125 126 127 128
(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	129 130 131 132 133

correct tax due by the pass-through entity investors covered by 134
that return. Nothing in this division shall be construed to 135
limit or alter the liability, if any, imposed on pass-through 136
entity investors for unpaid or underpaid taxes, interest, 137
interest penalty, or penalties as a result of the pass-through 138
entity's making the election provided for under division (D) of 139
this section. For the purposes of division (D) of this section, 140
"correct tax due" means the tax that would have been paid by the 141
pass-through entity had the single return been filed in a manner 142
reflecting the commissioner's findings. Nothing in division (D) 143
of this section shall be construed to make or hold a pass- 144
through entity liable for tax attributable to a pass-through 145
entity investor's income from a source other than the pass- 146
through entity electing to file the single return. 147

(E) If a husband and wife file a joint federal income tax 148
return for a taxable year, they shall file a joint return under 149
this section for that taxable year, and their liabilities are 150
joint and several, but, if the federal income tax liability of 151
either spouse is determined on a separate federal income tax 152
return, they shall file separate returns under this section. 153

If either spouse is not required to file a federal income 154
tax return and either or both are required to file a return 155
pursuant to this chapter, they may elect to file separate or 156
joint returns, and, pursuant to that election, their liabilities 157
are separate or joint and several. If a husband and wife file 158
separate returns pursuant to this chapter, each must claim the 159
taxpayer's own exemption, but not both, as authorized under 160
section 5747.02 of the Revised Code on the taxpayer's own 161
return. 162

(F) Each return or notice required to be filed under this 163

section shall contain the signature of the taxpayer or the 164
taxpayer's duly authorized agent and of the person who prepared 165
the return for the taxpayer, and shall include the taxpayer's 166
social security number. Each return shall be verified by a 167
declaration under the penalties of perjury. The tax commissioner 168
shall prescribe the form that the signature and declaration 169
shall take. 170

(G) Each return or notice required to be filed under this 171
section shall be made and filed as required by section 5747.04 172
of the Revised Code, on or before the fifteenth day of April of 173
each year, on forms that the tax commissioner shall prescribe, 174
together with remittance made payable to the treasurer of state 175
in the combined amount of the state and all school district 176
income taxes shown to be due on the form. 177

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

the Revised Code, whichever occurs first. 195

If the commissioner considers it necessary in order to 196
ensure the payment of the tax imposed by section 5747.02 of the 197
Revised Code or any tax imposed under Chapter 5748. of the 198
Revised Code, the commissioner may require returns and payments 199
to be made otherwise than as provided in this section. 200

To the extent that any provision in this division 201
conflicts with any provision in section 5747.026 of the Revised 202
Code, the provision in that section prevails. 203

(H) The amounts withheld pursuant to section 5747.06, 204
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 205
Revised Code shall be allowed to the ultimate recipient of the 206
income as credits against payment of the appropriate taxes 207
imposed on the ultimate recipient by section 5747.02 and under 208
Chapter 5748. of the Revised Code. As used in this division, 209
"ultimate recipient" means the person who is required to report 210
income from which amounts are withheld pursuant to section 211
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 212
the Revised Code on the annual return required to be filed under 213
this section. 214

(I) If a pass-through entity elects to file a single 215
return under division (D) of this section and if any investor is 216
required to file the annual return and make the payment of taxes 217
required by this chapter on account of the investor's other 218
income that is not included in a single return filed by a pass- 219
through entity or any other investor elects to file the annual 220
return, the investor is entitled to a refundable credit equal to 221
the investor's proportionate share of the tax paid by the pass- 222
through entity on behalf of the investor. The investor shall 223
claim the credit for the investor's taxable year in which or 224

with which ends the taxable year of the pass-through entity. 225
Nothing in this chapter shall be construed to allow any credit 226
provided in this chapter to be claimed more than once. For the 227
purpose of computing any interest, penalty, or interest penalty, 228
the investor shall be deemed to have paid the refundable credit 229
provided by this division on the day that the pass-through 230
entity paid the estimated tax or the tax giving rise to the 231
credit. 232

(J) The tax commissioner shall ensure that each return 233
required to be filed under this section includes a box that the 234
taxpayer may check to authorize a paid tax preparer who prepared 235
the return to communicate with the department of taxation about 236
matters pertaining to the return. The return or instructions 237
accompanying the return shall indicate that by checking the box 238
the taxpayer authorizes the department of taxation to contact 239
the preparer concerning questions that arise during the 240
processing of the return and authorizes the preparer only to 241
provide the department with information that is missing from the 242
return, to contact the department for information about the 243
processing of the return or the status of the taxpayer's refund 244
or payments, and to respond to notices about mathematical 245
errors, offsets, or return preparation that the taxpayer has 246
received from the department and has shown to the preparer. 247

(K) The tax commissioner shall permit individual taxpayers 248
to instruct the department of taxation to cause any refund of 249
overpaid taxes to be deposited directly into a checking account, 250
savings account, or an individual retirement account or 251
individual retirement annuity, or preexisting college savings 252
plan or program account offered by the Ohio tuition trust 253
authority under Chapter 3334. of the Revised Code, as designated 254
by the taxpayer, when the taxpayer files the annual return 255

required by this section electronically. 256

(L) The tax commissioner may adopt rules to administer 257
this section. 258

Sec. 5747.82. (A) As used in this section, "infant or 259
toddler formula" means a food which purports to be or is 260
represented for special dietary use solely as a food for 261
children under the age of two by reason of its simulation of 262
human milk or its suitability as a complete or partial 263
substitute for human milk. 264

(B) A refundable credit is allowed against a taxpayer's 265
aggregate liability under section 5747.02 of the Revised Code 266
for a taxpayer that meets the following requirements at any time 267
during the taxable year: 268

(1) The taxpayer was the parent or legal guardian of a 269
child under the age of two; 270

(2) The taxpayer purchased infant or toddler formula for 271
the child's consumption; 272

(3) The taxpayer had either sole custody or joint custody 273
of the child. 274

The amount of the credit allowed to the taxpayer or, if 275
filing a joint return, the taxpayer and the taxpayer's spouse 276
shall equal six hundred dollars for each child that qualifies 277
the taxpayer for the credit. A taxpayer may claim the credit 278
allowed under this section only once with respect to each such 279
child. If two taxpayers are eligible to claim the credit under 280
this section based on the same child, but do not file a joint 281
return, each taxpayer may claim the credit allowed under this 282
section, and the credit allowed to each taxpayer shall equal six 283
hundred dollars. 284

The credit shall be claimed in the order prescribed by 285
section 5747.98 of the Revised Code. If the amount of the credit 286
under this section exceeds the aggregate amount of tax otherwise 287
due under section 5747.02 of the Revised Code after deduction of 288
all other credits in that order, the taxpayer is entitled to a 289
refund of the excess. 290

The tax commissioner may require a taxpayer to furnish any 291
information necessary to support a claim for credit under this 292
section, and no credit shall be allowed unless such information 293
is provided. 294

Sec. 5747.98. (A) To provide a uniform procedure for 295
calculating a taxpayer's aggregate tax liability under section 296
5747.02 of the Revised Code, a taxpayer shall claim any credits 297
to which the taxpayer is entitled in the following order: 298

Either the retirement income credit under division (B) of 299
section 5747.055 of the Revised Code or the lump sum retirement 300
income credits under divisions (C), (D), and (E) of that 301
section; 302

Either the senior citizen credit under division (F) of 303
section 5747.055 of the Revised Code or the lump sum 304
distribution credit under division (G) of that section; 305

The dependent care credit under section 5747.054 of the 306
Revised Code; 307

The credit for displaced workers who pay for job training 308
under section 5747.27 of the Revised Code; 309

The campaign contribution credit under section 5747.29 of 310
the Revised Code; 311

The twenty-dollar personal exemption credit under section 312

5747.022 of the Revised Code;	313
The joint filing credit under division (G) of section	314
5747.05 of the Revised Code;	315
The earned income credit under section 5747.71 of the	316
Revised Code;	317
The nonrefundable credit for education expenses under	318
section 5747.72 of the Revised Code;	319
The nonrefundable credit for donations to scholarship	320
granting organizations under section 5747.73 of the Revised	321
Code;	322
The nonrefundable credit for tuition paid to a	323
nonchartered nonpublic school under section 5747.75 of the	324
Revised Code;	325
The nonrefundable vocational job credit under section	326
5747.057 of the Revised Code;	327
The credit for adoption of a minor child under section	328
5747.37 of the Revised Code;	329
The nonrefundable job retention credit under division (B)	330
of section 5747.058 of the Revised Code;	331
The enterprise zone credit under section 5709.66 of the	332
Revised Code;	333
The credit for beginning farmers who participate in a	334
financial management program under division (B) of section	335
5747.77 of the Revised Code;	336
The credit for selling or renting agricultural assets to	337
beginning farmers under division (A) of section 5747.77 of the	338
Revised Code;	339

The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	340 341
The small business investment credit under section 5747.81 of the Revised Code;	342 343
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	344 345
The opportunity zone investment credit under section 122.84 of the Revised Code;	346 347
The enterprise zone credits under section 5709.65 of the Revised Code;	348 349
The research and development credit under section 5747.331 of the Revised Code;	350 351
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	352 353
The nonresident credit under division (A) of section 5747.05 of the Revised Code;	354 355
The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	356 357
The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	358 359
The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	360 361 362
The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	363 364
The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section	365 366

5747.08 of the Revised Code;	367
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;	368 369 370
The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	371 372
<u>The refundable credit for the purchase of infant or toddler formula under section 5747.82 of the Revised Code.</u>	373 374
(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.	375 376 377 378 379 380 381 382 383 384 385
Section 2. That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	386 387
Section 3. The amendment or enactment by this act of sections 5747.08, 5747.82, or 5747.98 of the Revised Code applies to taxable years ending on or after the effective date of this section.	388 389 390 391