

As Introduced

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

H. B. No. 711

Representative Sobecki

A BILL

To amend section 5747.07 of the Revised Code to
require the Tax Commissioner to disclose to an
employee, upon request, the employee's withheld
state taxes. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5747.07 of the Revised Code be
amended to read as follows: 5
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Sec. 5747.07. (A) As used in this section: 7

(1) "Partial weekly withholding period" means a period
during which an employer directly, indirectly, or constructively
pays compensation to, or credits compensation to the benefit of,
an employee, and that consists of a consecutive Saturday,
Sunday, Monday, and Tuesday or a consecutive Wednesday,
Thursday, and Friday. There are two partial weekly withholding
periods each week, except that a partial weekly withholding
period cannot extend from one calendar year into the next
calendar year; if the first day of January falls on a day other
than Saturday or Wednesday, the partial weekly withholding
period ends on the thirty-first day of December and there are
three partial weekly withholding periods during that week. 8
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(2) "Undeposited taxes" means the taxes an employer is required to deduct and withhold from an employee's compensation pursuant to section 5747.06 of the Revised Code that have not been remitted to the tax commissioner pursuant to this section or to the treasurer of state pursuant to section 5747.072 of the Revised Code.

(3) A "week" begins on Saturday and concludes at the end of the following Friday.

(4) "Professional employer organization," "professional employer organization agreement," and "professional employer organization reporting entity" have the same meanings as in section 4125.01 of the Revised Code.

(5) "Alternate employer organization" and "alternate employer organization agreement" have the same meanings as in section 4133.01 of the Revised Code.

(6) "Client employer" has the same meaning as in section 4125.01 of the Revised Code in the context of a professional employer organization or a professional employer organization reporting entity, or the same meaning as in section 4133.01 of the Revised Code in the context of an alternate employer organization.

(B) Except as provided in divisions (C) and (D) of this section and in division (A) of section 5747.072 of the Revised Code, every employer required to deduct and withhold any amount under section 5747.06 of the Revised Code shall file a return and shall pay the amount required by law as follows:

(1) An employer who accumulates or is required to accumulate undeposited taxes of one hundred thousand dollars or more during a partial weekly withholding period shall make the

payment of the undeposited taxes by the close of the first 49
banking day after the day on which the accumulation reaches one 50
hundred thousand dollars. If required under division (I) of this 51
section, the payment shall be made by electronic funds transfer 52
under section 5747.072 of the Revised Code. 53

(2) Except as required by division (B)(1) of this section, 54
an employer whose actual or required payments under this section 55
were at least eighty-four thousand dollars during the twelve- 56
month period ending on the thirtieth day of June of the 57
preceding calendar year shall make the payment of undeposited 58
taxes within three banking days after the close of a partial 59
weekly withholding period during which the employer was required 60
to deduct and withhold any amount under this chapter. If 61
required under division (I) of this section, the payment shall 62
be made by electronic funds transfer under section 5747.072 of 63
the Revised Code. 64

(3) Except as required by divisions (B)(1) and (2) of this 65
section, if an employer's actual or required payments were more 66
than two thousand dollars during the twelve-month period ending 67
on the thirtieth day of June of the preceding calendar year, the 68
employer shall make the payment of undeposited taxes for each 69
month during which they were required to be withheld no later 70
than fifteen days following the last day of that month. The 71
employer shall file the return prescribed by the tax 72
commissioner with the payment. 73

(4) Except as required by divisions (B)(1), (2), and (3) 74
of this section, an employer shall make the payment of 75
undeposited taxes for each calendar quarter during which they 76
were required to be withheld no later than the last day of the 77
month following the last day of March, June, September, and 78

December each year. The employer shall file the return 79
prescribed by the tax commissioner with the payment. 80

(C) The return and payment schedules prescribed by 81
divisions (B) (1) and (2) of this section do not apply to the 82
return and payment of undeposited school district income taxes 83
arising from taxes levied pursuant to Chapter 5748. of the 84
Revised Code. Undeposited school district income taxes shall be 85
returned and paid pursuant to divisions (B) (3) and (4) of this 86
section, as applicable. 87

(D) (1) The requirements of division (B) of this section 88
are met if the amount paid is not less than ninety-five per cent 89
of the actual tax withheld or required to be withheld for the 90
prior quarterly, monthly, or partial weekly withholding period, 91
and the underpayment is not due to willful neglect. Any 92
underpayment of withheld tax shall be paid within thirty days of 93
the date on which the withheld tax was due without regard to 94
division (D) (1) of this section. An employer described in 95
division (B) (1) or (2) of this section shall make the payment by 96
electronic funds transfer under section 5747.072 of the Revised 97
Code. 98

(2) If the tax commissioner believes that quarterly or 99
monthly payments would result in a delay that might jeopardize 100
the remittance of withholding payments, the commissioner may 101
order that the payments be made weekly, or more frequently if 102
necessary, and the payments shall be made no later than three 103
banking days following the close of the period for which the 104
jeopardy order is made. An order requiring weekly or more 105
frequent payments shall be delivered to the employer personally 106
or by certified mail and remains in effect until the 107
commissioner notifies the employer to the contrary. 108

(3) If compelling circumstances exist concerning the 109
remittance of undeposited taxes, the commissioner may order the 110
employer to make payments under any of the payment schedules 111
under division (B) of this section. The order shall be delivered 112
to the employer personally or by certified mail and shall remain 113
in effect until the commissioner notifies the employer to the 114
contrary. For purposes of division (D)(3) of this section, 115
"compelling circumstances" exist if either or both of the 116
following are true: 117

(a) Based upon annualization of payments made or required 118
to be made during the preceding calendar year and during the 119
current calendar year, the employer would be required for the 120
next calendar year to make payments under division (B)(2) of 121
this section. 122

(b) Based upon annualization of payments made or required 123
to be made during the current calendar year, the employer would 124
be required for the next calendar year to make payments under 125
division (B)(2) of this section. 126

(E)(1) An employer described in division (B)(1) or (2) of 127
this section shall file, not later than the last day of the 128
month following the end of each calendar quarter, a return 129
covering, but not limited to, both the actual amount deducted 130
and withheld and the amount required to be deducted and withheld 131
for the tax imposed under section 5747.02 of the Revised Code 132
during each partial weekly withholding period or portion of a 133
partial weekly withholding period during that quarter. The 134
employer shall file the quarterly return even if the aggregate 135
amount required to be deducted and withheld for the quarter is 136
zero dollars. At the time of filing the return, the employer 137
shall pay any amounts of undeposited taxes for the quarter, 138

whether actually deducted and withheld or required to be 139
deducted and withheld, that have not been previously paid. If 140
required under division (I) of this section, the payment shall 141
be made by electronic funds transfer. The tax commissioner shall 142
prescribe the form and other requirements of the quarterly 143
return. 144

(2) In addition to other returns required to be filed and 145
payments required to be made under this section, every employer 146
required to deduct and withhold taxes shall file, not later than 147
the thirty-first day of January of each year, an annual return 148
covering, but not limited to, both the aggregate amount deducted 149
and withheld and the aggregate amount required to be deducted 150
and withheld during the entire preceding year for the tax 151
imposed under section 5747.02 of the Revised Code and for each 152
tax imposed under Chapter 5748. of the Revised Code. At the time 153
of filing that return, the employer shall pay over any amounts 154
of undeposited taxes for the preceding year, whether actually 155
deducted and withheld or required to be deducted and withheld, 156
that have not been previously paid. The employer shall make the 157
annual report, to each employee and to the tax commissioner, of 158
the compensation paid and each tax withheld, as the commissioner 159
by rule may prescribe. 160

Each employer required to deduct and withhold any tax is 161
liable for the payment of that amount required to be deducted 162
and withheld, whether or not the tax has in fact been withheld, 163
unless the failure to withhold was based upon the employer's 164
good faith in reliance upon the statement of the employee as to 165
liability, and the amount shall be deemed to be a special fund 166
in trust for the general revenue fund. 167

(F) Each employer shall file with the employer's annual 168

return the following items of information on employees for whom 169
withholding is required under section 5747.06 of the Revised 170
Code: 171

(1) The full name of each employee, the employee's 172
address, the employee's school district of residence, and in the 173
case of a nonresident employee, the employee's principal county 174
of employment; 175

(2) The social security number of each employee; 176

(3) The total amount of compensation paid before any 177
deductions to each employee for the period for which the annual 178
return is made; 179

(4) The amount of the tax imposed by section 5747.02 of 180
the Revised Code and the amount of each tax imposed under 181
Chapter 5748. of the Revised Code withheld from the compensation 182
of the employee for the period for which the annual return is 183
made. The commissioner may extend upon good cause the period for 184
filing any notice or return required to be filed under this 185
section and may adopt rules relating to extensions of time. If 186
the extension results in an extension of time for the payment of 187
the amounts withheld with respect to which the return is filed, 188
the employer shall pay, at the time the amount withheld is paid, 189
an amount of interest computed at the rate per annum prescribed 190
by section 5703.47 of the Revised Code on that amount withheld, 191
from the day that amount was originally required to be paid to 192
the day of actual payment or to the day an assessment is issued 193
under section 5747.13 of the Revised Code, whichever occurs 194
first. 195

(5) In addition to all other interest charges and 196
penalties imposed, all amounts of taxes withheld or required to 197

be withheld and remaining unpaid after the day the amounts are 198
required to be paid shall bear interest from the date prescribed 199
for payment at the rate per annum prescribed by section 5703.47 200
of the Revised Code on the amount unpaid, in addition to the 201
amount withheld, until paid or until the day an assessment is 202
issued under section 5747.13 of the Revised Code, whichever 203
occurs first. 204

(G) An employee of a corporation, limited liability 205
company, or business trust having control or supervision of or 206
charged with the responsibility of filing the report and making 207
payment, or an officer, member, manager, or trustee of a 208
corporation, limited liability company, or business trust who is 209
responsible for the execution of the corporation's, limited 210
liability company's, or business trust's fiscal 211
responsibilities, shall be personally liable for failure to file 212
the report or pay the tax due as required by this section. The 213
dissolution, termination, or bankruptcy of a corporation, 214
limited liability company, or business trust does not discharge 215
a responsible officer's, member's, manager's, employee's, or 216
trustee's liability for a failure of the corporation, limited 217
liability company, or business trust to file returns or pay tax 218
due. 219

(H) If an employer required to deduct and withhold income 220
tax from compensation and to pay that tax to the state under 221
sections 5747.06 and 5747.07 of the Revised Code sells the 222
employer's business or stock of merchandise or quits the 223
employer's business, the taxes required to be deducted and 224
withheld and paid to the state pursuant to those sections prior 225
to that time, together with any interest and penalties imposed 226
on those taxes, become due and payable immediately, and that 227
person shall make a final return within fifteen days after the 228

date of selling or quitting business. The employer's successor 229
shall withhold a sufficient amount of the purchase money to 230
cover the amount of the taxes, interest, and penalties due and 231
unpaid, until the former owner produces a receipt from the tax 232
commissioner showing that the taxes, interest, and penalties 233
have been paid or a certificate indicating that no such taxes 234
are due. If the purchaser of the business or stock of 235
merchandise fails to withhold purchase money, the purchaser 236
shall be personally liable for the payment of the taxes, 237
interest, and penalties accrued and unpaid during the operation 238
of the business by the former owner. If the amount of taxes, 239
interest, and penalties outstanding at the time of the purchase 240
exceeds the total purchase money, the tax commissioner in the 241
commissioner's discretion may adjust the liability of the seller 242
or the responsibility of the purchaser to pay that liability to 243
maximize the collection of withholding tax revenue. 244

(I) An employer whose actual or required payments under 245
this section exceeded eighty-four thousand dollars during the 246
twelve-month period ending on the thirtieth day of June of the 247
preceding calendar year shall make all payments required by this 248
section for the year by electronic funds transfer under section 249
5747.072 of the Revised Code. 250

(J) (1) Every professional employer organization, 251
professional employer organization reporting entity, and 252
alternate employer organization shall file a report with the tax 253
commissioner within thirty days after commencing business in 254
this state that includes all of the following information: 255

(a) The name, address, number the employer receives from 256
the secretary of state to do business in this state, if 257
applicable, and federal employer identification number of each 258

client employer of the organization or entity;	259
(b) The date that each client employer became a client of the organization or entity;	260 261
(c) The names and mailing addresses of the chief executive officer and the chief financial officer of each client employer for taxation of the client employer.	262 263 264
(2) Beginning with the calendar quarter ending after a professional employer organization, professional employer organization reporting entity, or alternate employer organization files the report required under division (J) (1) of this section, and every calendar quarter thereafter, the organization or entity shall file an updated report with the tax commissioner. The organization or entity shall file the updated report not later than the last day of the month following the end of the calendar quarter and shall include all of the following information in the report:	265 266 267 268 269 270 271 272 273 274
(a) If an entity became a client employer of the professional employer organization, professional employer organization reporting entity, or alternate employer organization at any time during the calendar quarter, all of the information required under division (J) (1) of this section for each new client employer;	275 276 277 278 279 280
(b) If an entity terminated the professional employer organization agreement or the alternate employer organization agreement between the entity and the professional employer organization, professional employer organization reporting entity, or alternate employer organization, as applicable, at any time during the calendar quarter, the information described in division (J) (1) (a) of this section for that entity, the date	281 282 283 284 285 286 287

during the calendar quarter that the entity ceased being a 288
client of the organization or reporting entity, if applicable, 289
or the date the entity ceased business operations in this state, 290
if applicable; 291

(c) If the name or mailing address of the chief executive 292
officer or the chief financial officer of a client employer has 293
changed since the professional employer organization, 294
professional employer organization reporting entity, or 295
alternate employer organization previously submitted a report 296
under division (J) (1) or (2) of this section, the updated name 297
or mailing address, or both, of the chief executive officer or 298
the chief financial officer, as applicable; 299

(d) If none of the events described in divisions (J) (2) (a) 300
to (c) of this section occurred during the calendar quarter, a 301
statement of that fact. 302

(K) An employee may request that the tax commissioner 303
provide to the employee the employee's own information described 304
under divisions (F) (1) to (4) of this section appearing on 305
employers' annual reports filed under division (E) (2) of this 306
section for any calendar year. The commissioner shall prescribe 307
the form for making this request, which shall require the 308
employee to identify the employee's social security number and 309
the calendar year or years for which such information is 310
requested. 311

Notwithstanding section 5703.21 of the Revised Code, 312
within fifteen days after receipt of such a request, the 313
commissioner shall provide the requested information to the 314
employee, to the extent that information is available for the 315
requested calendar year. 316

Section 2. That existing section 5747.07 of the Revised Code is hereby repealed. 317
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