

**As Passed by the Senate**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 231**

**Senator Hottinger**

**Cosponsors: Senators Cirino, Blessing, Schaffer, Antonio, Brenner, Craig, Fedor, Gavarone, Hackett, Johnson, Kunze, Maharath, Manning, Reineke, Romanchuk, Schuring, Sykes, Thomas, Wilson**

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**A BILL**

To amend section 5747.11 of the Revised Code to 1  
expressly authorize the issuance of an income 2  
tax refund in the name of a deceased taxpayer's 3  
fiduciary. 4

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

**Section 1.** That section 5747.11 of the Revised Code be 5  
amended to read as follows: 6

**Sec. 5747.11.** (A) The tax commissioner shall refund to 7  
employers, qualifying entities, or taxpayers subject to a tax 8  
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 9  
5748. of the Revised Code the amount of any overpayment of such 10  
tax. 11

(B) (1) Except as otherwise provided under divisions (D) 12  
and (E) of this section, applications for refund shall be filed 13  
with the tax commissioner, on the form prescribed by the 14  
commissioner, within four years from the date of the illegal, 15  
erroneous, or excessive payment of the tax, or within any 16

additional period allowed by division (B) (3) (b) of section 17  
5747.05, division (E) of section 5747.10, division (A) of 18  
section 5747.13, or division (C) of section 5747.45 of the 19  
Revised Code. 20

On filing of the refund application, the commissioner 21  
shall determine the amount of refund due and, if that amount 22  
exceeds one dollar, certify such amount to the director of 23  
budget and management and treasurer of state for payment from 24  
the tax refund fund created by section 5703.052 of the Revised 25  
Code. Payment shall be made as provided in division (C) of 26  
section 126.35 of the Revised Code. 27

(2) If an individual taxpayer is deceased, a refund may be 28  
issued in the name of the decedent and of the executor, 29  
administrator, or other person charged with the decedent's 30  
property, upon the request of that person. Such a request shall 31  
include any documentation, including a copy of the taxpayer's 32  
death certificate and any fiduciary or court documents, that the 33  
tax commissioner considers necessary to prove that the person 34  
making the request is qualified to receive the refund. If the 35  
request is for a refund that was previously issued in only the 36  
decedent's name, the person making the request must also provide 37  
the previously issued payment to the commissioner. 38

(C) (1) Interest shall be allowed and paid at the rate per 39  
annum prescribed by section 5703.47 of the Revised Code on 40  
amounts refunded with respect to the tax imposed under section 41  
5747.02 or Chapter 5748. of the Revised Code from the date of 42  
the overpayment until the date of the refund of the overpayment, 43  
except that if any overpayment is refunded within ninety days 44  
after the final filing date of the annual return or ninety days 45  
after the return is filed, whichever is later, no interest shall 46

be allowed on such overpayment. If the overpayment results from 47  
the carryback of a net operating loss or net capital loss to a 48  
previous taxable year, the overpayment is deemed not to have 49  
been made prior to the filing date, including any extension 50  
thereof, for the taxable year in which the net operating loss or 51  
net capital loss arises. For purposes of the payment of interest 52  
on overpayments, no amount of tax, for any taxable year, shall 53  
be treated as having been paid before the date on which the tax 54  
return for that year was due without regard to any extension of 55  
time for filing such return. 56

(2) Interest shall be allowed at the rate per annum 57  
prescribed by section 5703.47 of the Revised Code on amounts 58  
refunded with respect to the taxes imposed under sections 59  
5733.41 and 5747.41 of the Revised Code. The interest shall run 60  
from whichever of the following days is the latest until the day 61  
the refund is paid: the day the illegal, erroneous, or excessive 62  
payment was made; the ninetieth day after the final day the 63  
annual report was required to be filed under section 5747.42 of 64  
the Revised Code; or the ninetieth day after the day that report 65  
was filed. 66

(D) "Ninety days" shall be substituted for "four years" in 67  
division (B) of this section if the taxpayer satisfies both of 68  
the following conditions: 69

(1) The taxpayer has applied for a refund based in whole 70  
or in part upon section 5747.059 of the Revised Code; 71

(2) The taxpayer asserts that either the imposition or 72  
collection of the tax imposed or charged by this chapter or any 73  
portion of such tax violates the Constitution of the United 74  
States or the Constitution of Ohio. 75

(E) (1) Division (E) (2) of this section applies only if all 76  
of the following conditions are satisfied: 77

(a) A qualifying entity pays an amount of the tax imposed 78  
by section 5733.41 or 5747.41 of the Revised Code; 79

(b) The taxpayer is a qualifying investor as to that 80  
qualifying entity; 81

(c) The taxpayer did not claim the credit provided for in 82  
section 5747.059 of the Revised Code as to the tax described in 83  
division (E) (1) (a) of this section; 84

(d) The four-year period described in division (B) of this 85  
section has ended as to the taxable year for which the taxpayer 86  
otherwise would have claimed that credit. 87

(2) A taxpayer shall file an application for refund 88  
pursuant to division (E) of this section within one year after 89  
the date the payment described in division (E) (1) (a) of this 90  
section is made. An application filed under division (E) (2) of 91  
this section shall claim refund only of overpayments resulting 92  
from the taxpayer's failure to claim the credit described in 93  
division (E) (1) (c) of this section. Nothing in division (E) of 94  
this section shall be construed to relieve a taxpayer from 95  
complying with division (A) (15) of section 5747.01 of the 96  
Revised Code. 97

**Section 2.** That existing section 5747.11 of the Revised 98  
Code is hereby repealed. 99