

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**H. B. No. 405**

**Representative Dell'Aquila**

**Cosponsors: Representatives Brennan, Troy, McNally, Upchurch, Brown, Rogers,  
Lipps, Somani**

---

**A BILL**

To amend sections 5747.08 and 5747.98 and to enact 1  
section 5747.86 of the Revised Code to authorize 2  
a refundable income tax credit for disability- 3  
related home expenses. 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 5747.86 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) Except as provided by division (L) of this section, 64  
nothing in division (D) of this section precludes the tax 65  
commissioner from requiring such investors to file the return 66  
and make the payment of taxes and related interest, penalty, and 67  
interest penalty required by this section or section 5747.02, 68  
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 69  
of this section precludes such an investor from filing the 70  
annual return under this section, utilizing the refundable 71  
credit equal to the investor's proportionate share of the tax 72  
paid by the pass-through entity on behalf of the investor under 73  
division (I) of this section, and making the payment of taxes 74  
imposed under section 5747.02 of the Revised Code. Nothing in 75  
division (D) of this section shall be construed to provide to 76  
such an investor or pass-through entity any additional deduction 77  
or credit, other than the credit provided by division (I) of 78

this section, solely on account of the entity's filing a return 79  
in accordance with this section. Such a pass-through entity also 80  
shall make the filing and payment of estimated taxes on behalf 81  
of the pass-through entity investors other than an investor that 82  
is a person subject to the tax imposed under section 5733.06 of 83  
the Revised Code. 84

(2) For the purposes of this section, "business credits" 85  
means the credits listed in section 5747.98 of the Revised Code 86  
excluding the following credits: 87

(a) The retirement income credit under division (B) of 88  
section 5747.055 of the Revised Code; 89

(b) The senior citizen credit under division (F) of 90  
section 5747.055 of the Revised Code; 91

(c) The lump sum distribution credit under division (G) of 92  
section 5747.055 of the Revised Code; 93

(d) The dependent care credit under section 5747.054 of 94  
the Revised Code; 95

(e) The lump sum retirement income credit under division 96  
(C) of section 5747.055 of the Revised Code; 97

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

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

(h) The credit for displaced workers who pay for job 102  
training under section 5747.27 of the Revised Code; 103

(i) The twenty-dollar personal exemption credit under 104  
section 5747.022 of the Revised Code; 105

(j) The joint filing credit under division (E) of section 5747.05 of the Revised Code;	106 107
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	108 109
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	110 111
(m) The earned income tax credit under section 5747.71 of the Revised Code;	112 113
(n) The lead abatement credit under section 5747.26 of the Revised Code;	114 115
(o) The credit for education expenses under section 5747.72 of the Revised Code;	116 117
(p) The credit for tuition paid to a nonchartered nonpublic school under section 5747.75 of the Revised Code;	118 119
<u>(q) The credit for disability-related home expenses under section 5747.86 of the Revised Code.</u>	120 121
(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.	122 123 124 125 126 127 128 129
(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	130 131 132 133

commissioner finds that the single return does not reflect the 134  
correct tax due by the pass-through entity investors covered by 135  
that return. Nothing in this division shall be construed to 136  
limit or alter the liability, if any, imposed on pass-through 137  
entity investors for unpaid or underpaid taxes, interest, 138  
interest penalty, or penalties as a result of the pass-through 139  
entity's making the election provided for under division (D) of 140  
this section. For the purposes of division (D) of this section, 141  
"correct tax due" means the tax that would have been paid by the 142  
pass-through entity had the single return been filed in a manner 143  
reflecting the commissioner's findings. Nothing in division (D) 144  
of this section shall be construed to make or hold a pass- 145  
through entity liable for tax attributable to a pass-through 146  
entity investor's income from a source other than the pass- 147  
through entity electing to file the single return. 148

(E) If a husband and wife file a joint federal income tax 149  
return for a taxable year, they shall file a joint return under 150  
this section for that taxable year, and their liabilities are 151  
joint and several, but, if the federal income tax liability of 152  
either spouse is determined on a separate federal income tax 153  
return, they shall file separate returns under this section. 154

If either spouse is not required to file a federal income 155  
tax return and either or both are required to file a return 156  
pursuant to this chapter, they may elect to file separate or 157  
joint returns, and, pursuant to that election, their liabilities 158  
are separate or joint and several. If a husband and wife file 159  
separate returns pursuant to this chapter, each must claim the 160  
taxpayer's own exemption, but not both, as authorized under 161  
section 5747.02 of the Revised Code on the taxpayer's own 162  
return. 163

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

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

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

until the day an assessment is issued under section 5747.13 of 195  
the Revised Code, whichever occurs first. 196

If the commissioner considers it necessary in order to 197  
ensure the payment of the tax imposed by section 5747.02 of the 198  
Revised Code or any tax imposed under Chapter 5748. of the 199  
Revised Code, the commissioner may require returns and payments 200  
to be made otherwise than as provided in this section. 201

To the extent that any provision in this division 202  
conflicts with any provision in section 5747.026 of the Revised 203  
Code, the provision in that section prevails. 204

(H) The amounts withheld pursuant to section 5747.06, 205  
5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of the 206  
Revised Code shall be allowed to the ultimate recipient of the 207  
income as credits against payment of the appropriate taxes 208  
imposed on the ultimate recipient by section 5747.02 and under 209  
Chapter 5748. of the Revised Code. As used in this division, 210  
"ultimate recipient" means the person who is required to report 211  
income from which amounts are withheld pursuant to section 212  
5747.06, 5747.062, 5747.063, 5747.064, 5747.065, or 5747.071 of 213  
the Revised Code on the annual return required to be filed under 214  
this section. 215

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



claim the credit for the investor's taxable year in which or 225  
with which ends the taxable year of the pass-through entity. 226  
Nothing in this chapter shall be construed to allow any credit 227  
provided in this chapter to be claimed more than once. For the 228  
purpose of computing any interest, penalty, or interest penalty, 229  
the investor shall be deemed to have paid the refundable credit 230  
provided by this division on the day that the pass-through 231  
entity paid the estimated tax or the tax giving rise to the 232  
credit. 233

(J) The tax commissioner shall ensure that each return 234  
required to be filed under this section includes a box that the 235  
taxpayer may check to authorize a paid tax preparer who prepared 236  
the return to communicate with the department of taxation about 237  
matters pertaining to the return. The return or instructions 238  
accompanying the return shall indicate that by checking the box 239  
the taxpayer authorizes the department of taxation to contact 240  
the preparer concerning questions that arise during the 241  
processing of the return and authorizes the preparer only to 242  
provide the department with information that is missing from the 243  
return, to contact the department for information about the 244  
processing of the return or the status of the taxpayer's refund 245  
or payments, and to respond to notices about mathematical 246  
errors, offsets, or return preparation that the taxpayer has 247  
received from the department and has shown to the preparer. 248

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

by the taxpayer, when the taxpayer files the annual return 256  
required by this section electronically. 257

(L) If, for the taxable year, a nonresident or trust that 258  
is the owner of an electing pass-through entity, as defined in 259  
section 5747.38 of the Revised Code, does not have Ohio adjusted 260  
gross income or, in the case of a trust, modified Ohio taxable 261  
income other than from one or more electing pass-through 262  
entities, the nonresident or trust shall not be required to file 263  
an annual return under this section. Nothing in this division 264  
precludes such an owner from filing the annual return under this 265  
section, utilizing the refundable credit under section 5747.39 266  
of the Revised Code equal to the owner's proportionate share of 267  
the tax levied under section 5747.38 of the Revised Code and 268  
paid by the electing pass-through entity, and making the payment 269  
of taxes imposed under section 5747.02 of the Revised Code. 270

(M) The tax commissioner may adopt rules to administer 271  
this section. 272

**Sec. 5747.86.** (A) As used in this section: 273

(1) "Activity of daily living" has the same meaning as in 274  
section 7702B of the Internal Revenue Code. 275

(2) "Qualifying taxpayer" means a taxpayer who is, or who 276  
has a spouse or dependent who is, either (a) over fifty-nine 277  
years of age on the last day of the taxpayer's taxable year or 278  
(b) permanently and totally disabled on the last day of the 279  
taxpayer's taxable year with documentation from a licensed 280  
health care provider certifying that the individual requires 281  
assistance for at least one activity of daily living. 282

(3) "Disability-related home expenses" means any expenses 283  
incurred for the purpose of facilitating activities of daily 284

living within or about a qualifying taxpayer's residence and 285  
increasing the amount of time the taxpayer or taxpayer's spouse 286  
or dependent may continue to inhabit the residence before 287  
needing to relocate to an assisted living facility. Disability- 288  
related home expenses include the following: 289

(a) Modifications to the qualifying taxpayer's existing 290  
residence, provided that the modification is designed to improve 291  
accessibility and provide universal visitability in accordance 292  
with guidelines established by the department of aging. 293  
Modifications may include, but are not limited to, the 294  
installation of wheelchair ramps, bathtub bars, and zero-step 295  
entrances. 296

(b) Expenses related to respite care, adult day care, 297  
hiring a home aide or personal care attendant, or assistive 298  
technology necessary for the care of the qualifying taxpayer or 299  
taxpayer's spouse or dependent. 300

"Disability-related home expenses" does not include 301  
general household maintenance expenses, such as expenses related 302  
to painting, plumbing, electrical repairs, or exterior 303  
maintenance. 304

(4) "Licensed health care provider" means any of the 305  
following: 306

(a) A physician authorized under Chapter 4731. of the 307  
Revised Code to practice medicine or osteopathic medicine; 308

(b) A registered nurse, advanced practice registered 309  
nurse, or licensed practical nurse licensed under Chapter 4723. 310  
of the Revised Code; 311

(c) A physician assistant licensed under Chapter 4730. of 312  
the Revised Code. 313

(5) "Permanently and totally disabled" means a person has 314  
(a) some impairment in body or mind that makes the person unable 315  
to work at any substantially remunerative employment that the 316  
person is reasonably able to perform and that will, with 317  
reasonable probability, continue for an indefinite period of at 318  
least twelve months without any present indication of recovery 319  
therefrom or (b) has been certified as permanently and totally 320  
disabled by a state or federal agency having the function of so 321  
classifying persons. 322

(B) Subject to division (C) of this section, there is 323  
hereby allowed a refundable credit against the aggregate tax 324  
liability under section 5747.02 of the Revised Code for a 325  
qualifying taxpayer who pays or incurs, or whose spouse or 326  
dependent pays or incurs, the costs of disability-related home 327  
expenses during the taxable year and who has been issued a 328  
certificate pursuant to division (C) of this section. The amount 329  
of the credit shall equal the cost of the disability-related 330  
home expenses but shall not exceed five thousand dollars. 331

The credit allowed by this section shall be claimed in the 332  
order prescribed by section 5747.98 of the Revised Code. If the 333  
amount of the credit exceeds the tax otherwise due for the 334  
taxable year after allowing for other credits preceding the 335  
credit in the order prescribed by that section, the excess shall 336  
be refunded to the taxpayer. 337

(C) A qualifying taxpayer who pays or incurs, or whose 338  
spouse or dependent pays or incurs, disability-related home 339  
expenses may submit an application for a tax-credit certificate 340  
to the department of aging. The department shall prescribe the 341  
form of the application. Upon receipt of an application, the 342  
department shall approve the application if each of the 343

following apply: 344

(1) The taxpayer qualifies as a qualifying taxpayer; 345

(2) Issuing a tax-credit certificate would not cause the 346  
total amount of credits approved under this section for the 347  
calendar year to exceed fifteen million dollars; 348

(3) The department has not previously approved a credit 349  
application by the same taxpayer or on the basis of the same 350  
disability-related home expenses; 351

(4) The application is not based on disability-related 352  
home expenses incurred in a transaction between a taxpayer, or a 353  
taxpayer's spouse or dependent, and a member of the taxpayer's 354  
family or between a pass-through entity and a taxpayer, or a 355  
taxpayer's spouse or dependent, that holds, directly or 356  
indirectly, an ownership interest in the entity. As used in 357  
division (C) (4) of this section, "family" has the same meaning 358  
as in section 5747.011 of the Revised Code. 359

After the department either approves or rejects the 360  
application, the department shall provide notice to the taxpayer 361  
in the form of a certificate sent by mail. 362

**Sec. 5747.98.** (A) To provide a uniform procedure for 363  
calculating a taxpayer's aggregate tax liability under section 364  
5747.02 of the Revised Code, a taxpayer shall claim any credits 365  
to which the taxpayer is entitled in the following order: 366

Either the retirement income credit under division (B) of 367  
section 5747.055 of the Revised Code or the lump sum retirement 368  
income credits under divisions (C), (D), and (E) of that 369  
section; 370

Either the senior citizen credit under division (F) of 371

section 5747.055 of the Revised Code or the lump sum	372
distribution credit under division (G) of that section;	373
The dependent care credit under section 5747.054 of the	374
Revised Code;	375
The credit for displaced workers who pay for job training	376
under section 5747.27 of the Revised Code;	377
The campaign contribution credit under section 5747.29 of	378
the Revised Code;	379
The twenty-dollar personal exemption credit under section	380
5747.022 of the Revised Code;	381
The joint filing credit under division (G) of section	382
5747.05 of the Revised Code;	383
The earned income credit under section 5747.71 of the	384
Revised Code;	385
The nonrefundable credit for education expenses under	386
section 5747.72 of the Revised Code;	387
The nonrefundable credit for donations to scholarship	388
granting organizations under section 5747.73 of the Revised	389
Code;	390
The nonrefundable credit for tuition paid to a	391
nonchartered nonpublic school under section 5747.75 of the	392
Revised Code;	393
The nonrefundable vocational job credit under section	394
5747.057 of the Revised Code;	395
The nonrefundable job retention credit under division (B)	396
of section 5747.058 of the Revised Code;	397
The enterprise zone credit under section 5709.66 of the	398

Revised Code;	399
The credit for beginning farmers who participate in a financial management program under division (B) of section 5747.77 of the Revised Code;	400 401 402
The credit for commercial vehicle operator training expenses under section 5747.82 of the Revised Code;	403 404
The nonrefundable welcome home Ohio (WHO) program credit under section 122.633 of the Revised Code;	405 406
The credit for selling or renting agricultural assets to beginning farmers under division (A) of section 5747.77 of the Revised Code;	407 408 409
The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	410 411
The small business investment credit under section 5747.81 of the Revised Code;	412 413
The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	414 415
The opportunity zone investment credit under section 122.84 of the Revised Code;	416 417
The enterprise zone credits under section 5709.65 of the Revised Code;	418 419
The research and development credit under section 5747.331 of the Revised Code;	420 421
The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	422 423
The nonrefundable Ohio low-income housing tax credit under section 5747.83 of the Revised Code;	424 425

The nonrefundable affordable single-family home credit	426
under section 5747.84 of the Revised Code;	427
The nonresident credit under division (A) of section	428
5747.05 of the Revised Code;	429
The credit for a resident's out-of-state income under	430
division (B) of section 5747.05 of the Revised Code;	431
The refundable motion picture and Broadway theatrical	432
production credit under section 5747.66 of the Revised Code;	433
The refundable credit for film and theater capital	434
improvement projects under section 5747.67 of the Revised Code;	435
The refundable jobs creation credit or job retention	436
credit under division (A) of section 5747.058 of the Revised	437
Code;	438
The refundable credit for taxes paid by a qualifying	439
entity granted under section 5747.059 of the Revised Code;	440
The refundable credits for taxes paid by a qualifying	441
pass-through entity granted under division (I) of section	442
5747.08 of the Revised Code;	443
The refundable credit under section 5747.80 of the Revised	444
Code for losses on loans made to the Ohio venture capital	445
program under sections 150.01 to 150.10 of the Revised Code;	446
The refundable credit for rehabilitating a historic	447
building under section 5747.76 of the Revised Code;	448
The refundable credit under section 5747.39 of the Revised	449
Code for taxes levied under section 5747.38 of the Revised Code	450
paid by an electing pass-through entity;	451
<u>The refundable credit for disability-related home expenses</u>	452



under section 5747.86 of the Revised Code. 453

(B) For any credit, except the refundable credits 454  
enumerated in this section and the credit granted under division 455  
(H) of section 5747.08 of the Revised Code, the amount of the 456  
credit for a taxable year shall not exceed the taxpayer's 457  
aggregate amount of tax due under section 5747.02 of the Revised 458  
Code, after allowing for any other credit that precedes it in 459  
the order required under this section. Any excess amount of a 460  
particular credit may be carried forward if authorized under the 461  
section creating that credit. Nothing in this chapter shall be 462  
construed to allow a taxpayer to claim, directly or indirectly, 463  
a credit more than once for a taxable year. 464

**Section 2.** That existing sections 5747.08 and 5747.98 of 465  
the Revised Code are hereby repealed. 466

**Section 3.** The enactment by this act of section 5747.86 of 467  
the Revised Code shall apply to taxable years ending on or after 468  
the effective date of this section. 469