

Do not use staples. Use only black ink and UPPERCASE letters.



Department of Taxation

Rev. 9/16

2016 Ohio IT 1040

Individual Income Tax Return



16000101

Taxable year [O.R.C. 5747.01\(M\)](#)

Note: This form encompasses the IT 1040, IT 1040EZ and amended IT 1040X.

Is this an amended return?  Yes  No If yes, include Ohio IT RE (do not include a copy of the previously filed return)

[O.R.C. 5703.057\(A\)](#)

Is this a Net Operating Loss (NOL) carryback?  Yes  No If yes, include Schedule IT NOL

Taxpayer's SSN (required)  If deceased Spouse's SSN (if filing jointly)  If deceased Enter school district # for this return (see instructions).

First name M.I. Last name Spouse's first name (only if married filing jointly) M.I. Last name SD#

[O.R.C. 5747.04](#)

[TC Rule 5703-7-09](#)

Mailing address (for faster processing, use a street address)

[Ohio residency status – O.R.C. 5747.01\(I\), 5747.01\(J\), 5747.24, TC rule 5703-7-09, 5703-7-16](#)

City State ZIP code Ohio county (first four letters)

Home address (if different from mailing address) – do NOT include city or state ZIP code Ohio county (first four letters)

Foreign country (if the mailing address is outside the U.S.) Foreign postal code

Ohio Residency Status – Check applicable box
Full-year resident Part-year resident Nonresident Indicate state

Check applicable box for spouse (only if married filing jointly)
Full-year resident Part-year resident Nonresident Indicate state

Ohio Political Party Fund O.R.C. 5747.081
Do you want \$1 to go to this fund? Yes No

If joint return, does your spouse want \$1 to go to this fund? Yes No
Note: Checking "Yes" will not increase your tax or decrease your refund.

Filing Status – Check one (as reported on federal income tax return, with limited exceptions – see instructions) O.R.C. 5747.08(E)

Single, head of household or qualifying widow(er)
Married filing jointly Married filing separately Yes No

Did you file the federal extension 4868? Yes No

Is someone else claiming you or your spouse (if joint return) as a dependent? If yes, enter "0" on line 4 Yes No

Table with 7 rows and 3 columns: Line number, Description, Amount. Includes Federal adjusted gross income, Additions, Deductions, Exemption deduction, Taxable business income, and Total.

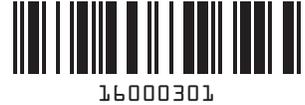
Include your federal income tax return if line 1 of this return is -0- or negative.

Do not write in this area: for department use only.

Postmark date Code



**2016 Ohio Schedule A**  
**Income Adjustments – Additions and Deductions**  
SSN of primary filer



--	--	--	--	--

**Additions**

(add income items only to the extent not included on Ohio IT 1040, line 1)

1. Non-Ohio state or local government interest and dividends.....	1.	<u>O.R.C. 5747.01(A)(1)</u>	0	0
2. Certain Ohio pass-through entity and financial institutions taxes paid .....	2.	<u>O.R.C. 5747.01(A)(16)</u>	0	0
3. Reimbursement of college tuition expenses and fees deducted in any previous year(s) and noneducation expenditures from a college savings account.....	3.	<u>O.R.C. 5747.01(A)(10)&amp;(19), 5747.70</u>	0	70
4. Losses from sale or disposition of Ohio public obligations.....	4.	<u>O.R.C. 5747.01(A)(9)</u>	0	0
5. Nonmedical withdrawals from a medical savings account.....	5.	<u>O.R.C. 5747.01(A)(15)</u>	0	0
6. Reimbursement of expenses previously deducted for Ohio income tax purposes, but only if the reimbursement is not in federal adjusted gross income.....	6.	<u>O.R.C. 5747.01(A)(12)(b)</u>	0	0

**Federal**

7. Adjustment for Internal Revenue Code sections 168(k) and 179 depreciation expense.....	7.	<u>O.R.C. 5747.01(A)(20)</u>	0	0
8. Federal interest and dividends subject to state taxation .....	8.	<u>O.R.C. 5747.01(A)(2)</u>	0	0
9. Miscellaneous federal income tax additions.....	9.	<u>O.R.C. 5701.11(B)(1)</u>	0	0
10. <b>Total additions</b> (add lines 1 through 9 ONLY). Enter here and on Ohio IT 1040, line 2a .....	10.	<b>Total</b>	0	0

**Deductions**

(deduct income items only to the extent included on Ohio IT 1040, line 1)

11. Business income deduction (include Ohio Schedule IT BUS, line 11) .....	11.	<u>O.R.C. 5747.01(A)(31)(b)</u>	0	0
12. Employee compensation earned in Ohio by residents of neighboring states.....	12.	<u>O.R.C. 5747.05(A)(2)</u>	0	0
13. State or municipal income tax overpayments shown on the federal 1040, line 10.....	13.	<u>O.R.C. 5747.01(A)(12)(a)</u>	0	0
14. Qualifying Social Security benefits and certain railroad retirement benefits .....	14.	<u>O.R.C. 5747.01(A)(5)</u>	0	0
15. Interest income from Ohio public obligations and from Ohio purchase obligations; gains from the sale or disposition of Ohio public obligations; public service payments received from the state of Ohio; or income from a transfer agreement .....	15.	<u>O.R.C. 5747.01(A)(8)(9)</u>	0	0
16. Amounts contributed to an individual development account.....	16.	<u>O.R.C. 5747.01(A)(17)</u>	0	0
17. Amounts contributed to STABLE account: Ohio's ABLE Plan.....	17.	<u>O.R.C. 5747.01(A)(32), 5747.78</u>	0	0

**Federal**

18. Federal interest and dividends exempt from state taxation.....	18.	<u>O.R.C. 5747.01(A)(3)</u>	0	0
19. Adjustment for Internal Revenue Code sections 168(k) and 179 depreciation expense.....	19.	<u>O.R.C. 5747.01(A)(21)</u>	0	0
20. Refund or reimbursements shown on the federal 1040, line 21 for itemized deductions claimed on a prior year federal income tax return .....	20.	<u>O.R.C. 5747.01(A)(12)(a)</u>	0	0
21. Repayment of income reported in a prior year.....	21.	<u>O.R.C. 5747.01(A)(13)</u>	0	0
22. Wage expense not deducted due to claiming the federal work opportunity tax credit.....	22.	<u>O.R.C. 5747.01(A)(7)</u>	0	0
23. Miscellaneous federal income tax deductions.....	23.	<u>O.R.C. 5701.11(B)(1)</u>	0	0



# 2016 Ohio Schedule A

## Income Adjustments – Additions and Deductions

SSN of primary filer



--	--	--	--	--

### Uniformed Services

24. Military pay for Ohio residents received while the military member was stationed outside Ohio	24.	<a href="#">O.R.C. 5747.01(A)(24)</a>	0	0
<b>Servicemembers Civil Relief Act sections 511(b) and 511(d)</b>			0	0
25. Certain income earned by military nonresidents and civilian nonresident spouses	25.			
26. Uniformed services retirement income	26.	<a href="#">O.R.C. 5747.01(A)(26)</a>	0	0
27. Military injury relief fund	27.	<a href="#">O.R.C. 5747.01(A)(27)</a>	0	0
28. Certain Ohio National Guard reimbursements and benefits	28.	<a href="#">O.R.C. 5747.01(A)(22) &amp; (23)</a>	0	0

### Education

29. Ohio 529 contributions, tuition credit purchases	29.	<a href="#">O.R.C. 5747.01(A)(10), 5747.70</a>	0	0
30. Pell/Ohio College Opportunity taxable grant amounts used to pay room and board	30.	<a href="#">O.R.C. 5747.01(A)(30)</a>	0	0

### Medical

31. Disability and survivorship benefits (do not include pension continuation benefits)	31.	<a href="#">O.R.C. 5747.01(A)(4)-O.A.C. 5703-7-08</a>	0	0
32. Unreimbursed long-term care insurance premiums, unsubsidized health care insurance premiums and excess health care expenses (see instructions for worksheet)	32.	<a href="#">O.R.C. 5747.01(A)(11)</a>	0	0
33. Funds deposited into, and earnings of, a medical savings account for eligible health care expenses (see instructions for worksheet)	33.	<a href="#">O.R.C. 5747.01(A)(14)</a>	0	0
34. Qualified organ donor expenses (maximum \$10,000 per taxpayer)	34.	<a href="#">O.R.C. 5747.01(A)(25)</a>	0	0
35. <b>Total deductions</b> (add lines 11 through 34 ONLY). Enter here and on Ohio IT 1040, line 2b	35.	<b>Total</b>	0	0

Do not use staples. Use only black ink.



Department of Taxation  
Rev. 9/16

# 2016 Ohio Schedule of Credits

## Nonrefundable and Refundable



16280101

SSN of primary filer

SSN input boxes

[Order of Credits O.R.C. 5747.98](#)

### Nonrefundable Credits

1. Tax liability before credits (from Ohio IT 1040, line 8c) .....	1.	<a href="#">See IT 1040, line 8c</a>	0	0
2. Retirement income credit ( <b>limit \$200 per return</b> ). See the table in the instructions .....	2.	<a href="#">O.R.C. 5747.055(A)(1) &amp; (B)</a>	0	0
3. Lump sum retirement credit (include Ohio LS WKS, line 6).....	3.	<a href="#">O.R.C. 5747.055(C)(D) &amp; (E)</a>	0	0
4. Senior citizen credit (must be 65 or older to claim this credit; <b>limit \$50 per return</b> ) .....	4.	<a href="#">O.R.C. 5747.055(F)</a>	0	0
5. Lump sum distribution credit (must be 65 or older to claim this credit; include Ohio LS WKS, line 3).....	5.	<a href="#">O.R.C. 5747.055(G)</a>	0	0
6. Child care and dependent care credit (see the worksheet in the instructions).....	6.	<a href="#">O.R.C. 5747.054</a>	0	0
7. If Ohio IT 1040, line 5 is \$10,000 or less, enter \$88; otherwise, enter -0- (low income credit) .....	7.	<a href="#">O.R.C. 5747.056</a>	0	0
8. Displaced worker training credit (see the worksheet in the instructions) ( <b>limit \$500 per taxpayer</b> ) .....	8.	<a href="#">O.R.C. 5747.27</a>	0	0
9. Campaign contribution credit for Ohio statewide office or General Assembly ( <b>limit \$50 per taxpayer</b> ) ..	9.	<a href="#">O.R.C. 5747.29</a>	0	0
10. Income-based exemption credit (\$20 personal/dependent exemption credit) .....	10.	<a href="#">O.R.C. 5747.022</a>	0	0
11. Total (add lines 2 through 10) .....	11.	<b>Total</b>	0	0
12. Tax less credits (line 1 minus line 11; if less than -0-, enter -0-) .....	12.	<b>Total</b>	0	0
13. Joint filing credit. See the instructions for eligibility and documentation requirements. This credit is for married filing jointly status only. _____% times amount on line 12 ( <b>limit \$650</b> ) .....	13.	<a href="#">O.R.C. 5747.05(E)</a>	0	0
14. Earned income credit .....	14.	<a href="#">O.R.C. 5747.71</a>	0	0
15. Ohio adoption credit ( <b>limit \$10,000 per adopted child</b> ) .....	15.	<a href="#">O.R.C. 5747.37</a>	0	0
16. Job retention credit, nonrefundable portion (include a copy of the credit certificate).....	16.	<a href="#">O.R.C. 5747.058, 122.171</a>	0	0
17. Credit for eligible new employees in an enterprise zone (include a copy of the credit certificate).....	17.	<a href="#">O.R.C. 5709.66(B)</a>	0	0
18. Credit for purchases of grape production property .....	18.	<a href="#">O.R.C. 5747.28</a>	0	0
19. Invest Ohio credit (include a copy of the credit certificate) .....	19.	<a href="#">O.R.C. 5747.81</a>	0	0
20. Technology investment credit carryforward (include a copy of the credit certificate) .....	20.	<a href="#">former O.R.C. 5747.33, 122.152</a>	0	0
21. Enterprise zone day care and training credits (include a copy of the credit certificate) .....	21.	<a href="#">O.R.C. 5709.65(A)(4) &amp; (5)</a>	0	0
22. Research and development credit (include a copy of the credit certificate).....	22.	<a href="#">O.R.C. 5747.331, 166.21</a>	0	0
23. Ohio historic preservation credit, nonrefundable carryforward portion (include a copy of the credit certificate) .....	23.	<a href="#">O.R.C. 5747.76(D)</a>	0	0
24. Total (add lines 13 through 23) .....	24.	<b>Total</b>	0	0
25. Tax less additional credits (line 12 minus line 24; if less than -0-, enter -0-) .....	25.	<b>Total</b>	0	0

**Do not write in this area; for department use only.**

Do not use staples. Use only black ink.



Department of Taxation  
Rev. 9/16

# 2016 Ohio Schedule of Credits



16280201

## Nonrefundable and Refundable

SSN of primary filer

SSN input boxes

### Nonresident Credit

Date of nonresidency [ ]/[ ]/[ ] to [ ]/[ ]/[ ] State of residency [ ]

26. Enter the portion of Ohio adjusted gross income (Ohio IT 1040, line 3) that was not earned or received in Ohio. Include Ohio IT NRC if required. **O.R.C. 5747.05(A)(1) & (2)** 0 0

27. Enter the Ohio adjusted gross income (Ohio IT 1040, line 3) **See IT 1040, line 3** 0 0

28. Divide line 26 by line 27 and enter the result here (four digits; do not round). **O.R.C. 5747.05(A)(1) & (2)** 0 0  
Multiply this factor by the amount on line 25 to calculate your nonresident credit

### Resident Credit

29. Enter the portion of Ohio adjusted gross income (Ohio IT 1040, line 3) subjected to tax by other states or the District of Columbia while you were an Ohio resident (limits apply) **O.R.C. 5747.05(B)(1)** 0 0

30. Enter the Ohio adjusted gross income (Ohio IT 1040, line 3) **See IT 1040, line 3** 0 0

31. Divide line 29 by line 30 and enter the result here (four digits; do not round). **O.R.C. 5747.05(B)(1)** 0 0  
Multiply this factor by the amount on line 25 and enter the result here

32. Enter the 2016 income tax, less all credits other than withholding and estimated tax payments and overpayment carryforwards from previous years, paid to other states or the District of Columbia (limits apply) **O.R.C. 5747.05(B)(2)** 0 0

33. Enter the smaller of line 31 or line 32. This is your Ohio resident tax credit. If you filed a return for 2016 with a state(s) other than Ohio, enter the two-letter state abbreviation in the box(es) below **O.R.C. 5747.05(B)(1) & (2)** 0 0

State abbreviation input boxes

34. **Total nonrefundable credits** (add lines 11, 24, 28 and 33; enter here and on Ohio IT 1040, line 9) **Total** 0 0

### Refundable Credits

35. Historic preservation credit (include a copy of the credit certificate) **O.R.C. 5747.76** 0 0

36. Business jobs credit (include a copy of the credit certificate) **O.R.C. 5747.058** 0 0

37. Pass-through entity credit (include a copy of the federal K-1s) **O.R.C. 5747.059, 5747.08(I)** 0 0

38. Motion picture production credit (include a copy of the credit certificate) **O.R.C. 5747.66** 0 0

39. Financial Institutions Tax (FIT) credit (include a copy of the federal K-1s) **O.R.C. 5747.65** 0 0

40. Venture capital credit (include a copy of the credit certificate) **O.R.C. 5747.80** 0 0

41. **Total refundable credits** (add lines 35 through 40; enter here and on Ohio IT 1040, line 16) **Total** 0 0

Do not use staples. Use only black ink and UPPERCASE letters.



2016 SD 100 School District Income Tax Return



Note: This form encompasses the SD 100 and amended SD 100X.

Is this an amended return? Yes No If yes, include SD RE (do not include a copy of the previously filed return)

Is this a Net Operating Loss (NOL) carryback? Yes No If yes, include Schedule IT NOL

Taxpayer's SSN (required) If deceased Spouse's SSN (if filing jointly) If deceased Enter school district # for this return (see instructions). SD# O.R.C. 5748

First name M.I. Last name

Spouse's first name (only if married filing jointly) M.I. Last name

Mailing address (for faster processing, use a street address)

City State ZIP code Ohio county (first four letters)

Home address (if different from mailing address) - do NOT include city or state ZIP code Ohio county (first four letters)

Foreign country (if the mailing address is outside the U.S.) Foreign postal code

School District Residency - File a separate SD 100 for each taxing school district in which you lived during the taxable year.

Check applicable box O.R.C. 5748.01(F)(1) Full-year resident Part-year resident of SD# above Full-year nonresident of SD# above Enter date of nonresidency to

Filing Status - Check one (must match Ohio income tax return):

Single, head of household or qualifying widow(er) Married filing jointly O.R.C. 5747.08(E) Married filing separately

Tax Type - Check one (for an explanation, see the instructions)

I am filing this return because during the taxable year I lived in a(n): Traditional tax base school district. You must start with Schedule A, line 19 on page 2 of this return. Earned income tax base school district. You must start with Schedule B, line 24 on page 2 of this return.

Table with 6 rows for tax liability calculations. Line 1: School district taxable income. Line 2: School district tax rate. Line 3: Senior citizen credit. Line 4: School district income tax liability. Line 5: Interest penalty on underpayment of estimated tax. Line 6: Total school district income tax liability before withholding or estimated payments.

Do not write in this area: for department use only.

Postmark date Code



2016 SD 100  
School District Income Tax Return



16020201

SSN       SD#

- 6a. Amount from line 6 on page 1 ..... 6a.
- 7. School district income tax withheld (school district number on W-2(s), W-2G(s) and/or 1099-R(s) must agree with the school district number on this return). Include W-2(s), W-2G(s) and 1099-R(s) with the return ..... 7.
- 8. School district estimated and extension payments made (2016 SD 100ES and/or SD 40P) and credit carryforward from previous year return ..... 8.
- 9. **Amended return only** – amount previously paid with original/amended return ..... 9.
- 10. **Total school district income tax payments** (add lines 7, 8 and 9) ..... 10.
- 11. **Amended return only** – overpayment previously requested on original/amended return ..... 11.
- 12. Line 10 minus line 11. Place a negative sign (“-”) in the box at the right if the amount is less than -0-..  ... 12.

[See SD 100, line 6](#) 0 0

[O.R.C. 5747.08\(H\)](#) 0 0

[O.R.C. 5747.09\(A\)\(1\)](#) 0 0

[O.R.C. 5747.10 & 11](#) 0 0

**Total** 0 0

[O.R.C. 5747.10 & 11](#) 0 0

**Total** 0 0

If line 12 is **MORE THAN** line 6a, go to line 16. OTHERWISE, continue to line 13.

- 13. Tax liability (line 6a minus line 12). If line 12 is negative, ignore the negative sign (“-”) and add line 12 to line 6a ..... 13.
- 14. Interest and penalty due on late filing or late payment of tax (see instructions) ..... 14.
- 15. **TOTAL AMOUNT DUE** (line 13 plus line 14). **Include SD 40P (if original return) or SD 40XP (if amended return) and make check payable to “School District Income Tax”** ..... AMOUNT DUE ▶ 15.
- 16. Overpayment (line 12 minus line 6a) ..... 16.
- 17. **Original return only** – amount of line 16 to be credited toward 2017 school district income tax liability ..... 17.
- 18. **REFUND** (line 16 minus line 17) ..... **YOUR REFUND** ▶ 18.

**Total** 0 0

[O.R.C. 5748.08\(G\), 5747.15](#) 0 0

**Total** 0 0

[O.R.C. 5747.01\(R\)](#) 0 0

[O.R.C. 5747.11\(A\)](#) 0 0

**Total** 0 0

**Schedule A – Traditional Tax Base School District Amounts (see instructions)**

Complete this schedule **only** if filing a traditional tax base school district return.

- 19. Ohio income tax base reported on line 5 of Ohio IT 1040. Place a negative sign (“-”) in the box at the right if the amount is less than -0- .....  ... 19.
- 20. Business income deduction add-back (see instructions) ..... 20.
- 21. Total traditional tax base school district income (line 19 plus line 20). Place a negative sign (“-”) in the box at the right if the amount is less than -0- .....  ... 21.
- 22. The amount of traditional tax base school district income from line 21, if any, that you earned while **not** a resident of the school district whose number you entered on this return ..... 22.
- 23. School district taxable income (line 21 minus line 22; if less than -0-, enter -0-). Enter here and on line 1 of this return ..... 23.

[O.R.C. 5748.01\(E\)\(1\)\(a\)](#) 0 0

[O.R.C. 5748.01\(E\)\(1\)\(a\)](#) 0 0

**Total** 0 0

[O.R.C. 5748.01\(G\)\(1\)](#) 0 0

**Total** 0 0

**Schedule B – Earned Income Tax Base School District Amounts (see instructions)**

Complete this schedule **only** if filing an earned income tax base school district return.

- 24. Wages and other compensation (see instructions) ..... 24.
- 25. Net earnings from self-employment to the extent included in Ohio adjusted gross income. Place a negative sign (“-”) in the box at the right if the amount is less than -0- .....  ... 25.
- 26. Depreciation expense adjustment (see instructions) ..... 26.
- 27. School district taxable income (add lines 24, 25 and 26; if less than -0-, enter -0-). Enter here and on line 1 of this return ..... 27.

[O.R.C. 5748.01\(E\)\(1\)\(b\)](#) 0 0

[O.R.C. 5748.01\(E\)\(1\)\(b\)](#) 0 0

[O.R.C. 5701.11, 5748.01\(E\)\(1\)\(b\)](#) 0 0

**Total** 0 0

**Sign Here (required):** I have read this return. Under penalties of perjury, I declare that, to the best of my knowledge and belief, the return and all enclosures are true, correct and complete.

If your refund is \$1.00 or less, no refund will be issued.  
If you owe \$1.00 or less, no payment is necessary.

▶ Your signature O.R.C. 5747.08(F) O.R.C. 5703.25 Date (MM/DD/YY) \_\_\_\_\_

▶ Spouse's signature (see instructions) \_\_\_\_\_ Phone number \_\_\_\_\_

Preparer's printed name (see instructions) PTIN \_\_\_\_\_ Phone number \_\_\_\_\_

Do you authorize your preparer to contact us regarding this return? O.R.C. 5747.08(J) Yes  No

**NO Payment Included – Mail to:**

School District Income Tax  
P.O. Box 182197  
Columbus, OH 43218-2197

**Payment Included – Mail to:**

School District Income Tax  
P.O. Box 182389  
Columbus, OH 43218-2389

## OAC 5703-7-08 – Deduction of Disability and Survivorship Benefits

In accordance with Section 5747.01(A), Revised Code, a taxpayer may deduct, to the extent otherwise included in Federal Adjusted Gross Income, the amount of disability benefits received pursuant to a contributory or non-contributory employee disability and survivorship plan; provided, that the establishment of the employee's permanent or presumed permanent inability to engage in gainful employment for which qualified by training or experience as a result of a physical or mental impairment is a pre-condition to the receipt of such benefits.

A taxpayer may not deduct, as disability benefits, any "sick pay" or similar temporary wage and salary continuation payments, nor any payments received under a plan, regardless of the nature of such plan, if the plan deems such payments to be, or in lieu of, retirement benefits, annuities, or distributions. Payments initiated as disability benefits are deemed retirement benefits, annuities, or distributions, subject to separate Ohio tax treatment, when, by virtue of the attained age of the employee or any other cause, the plan no longer requires the pre-condition of physical or mental impairment for the receipt of such benefits.

In accordance with Section 5747.01(A), Revised Code, a taxpayer may deduct, to the extent otherwise included in Federal Adjusted Gross Income, the amount of survivor benefits received as a qualified survivor pursuant to a contributory or non-contributory disability and survivorship plan. A taxpayer may not deduct, as survivorship benefits, any payments received under a plan, regardless of the nature of the plan, if such plan deems the payments as other than survivorship payments or authorizes payments without the death of a covered employee as a pre-condition. Annuities, lump sum settlements, retirement payments, or other similar benefits received by a beneficiary under an option or election made by an employee and commencing upon such employee's death, are not deductible as survivor benefits, but are deemed retirement benefits subject to separate Ohio tax treatment.

(former TX-47-08); Eff 11-24-75

Rule promulgated under: RC 5703.14

## ORC 122.152 – Issuing Revenue Refunding Bonds

The director of development services may provide for the issuance of revenue refunding bonds of the state by the treasurer of state, payable solely from the sinking funds established in accordance with section 122.51 of the Revised Code at the times and in the order and manner provided by the director and in any trust agreement securing such bonds and shall also be secured by moneys in the other funds established pursuant to sections 122.39 and 122.41 to 122.62 of the Revised Code to the extent and on the terms specified by the director, for the purpose of refunding any revenue bonds then outstanding which have been issued under sections 122.39 and 122.41 to 122.62 of

the Revised Code, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the director and treasurer of state in respect to such bonds shall be governed by such sections insofar as they are applicable.

Amended by 129th General Assembly File No. 129, SB 314, §1, eff. 9/28/2012.

Effective Date: 07-14-1983 .

## ORC 122.171 – Tax Credits to Foster Job Retention

(A) As used in this section:

(1) “Capital investment project” means a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product development determined in accordance with generally accepted accounting principles, but does not include any of the following:

(a) Payments made for the acquisition of personal property through operating leases;

(b) Project costs paid before January 1, 2002;

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.

(2) “Eligible business” means a taxpayer and its related members with Ohio operations satisfying all of the following:

(a) The taxpayer employs at least five hundred full-time equivalent employees or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(b) The taxpayer makes or causes to be made payments for the capital investment project of one of the following:

(i) If the taxpayer is engaged at the project site primarily as a manufacturer, at least fifty million dollars in the aggregate at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer’s taxable year or tax period with respect to which the credit is granted;

(ii) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development services by rule, at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer’s taxable year or tax period with respect to which the credit is granted.

(c) The taxpayer had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.

(3) “Full-time equivalent employees” means the quotient obtained by dividing the total number of hours for

which employees were compensated for employment in the project by two thousand eighty. “Full-time equivalent employees” shall exclude hours that are counted for a credit under section 122.17 of the Revised Code.

(4) “Ohio employee payroll” has the same meaning as in section 122.17 of the Revised Code.

(5) “Manufacturer” has the same meaning as in section 5739.011 of the Revised Code.

(6) “Project site” means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.

(7) “Related member” has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.

(8) “Taxable year” includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant a nonrefundable tax credit to an eligible business under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the determination of the director of budget and management, tax commissioner, and the superintendent of insurance in the case of an insurance company, and the recommendation and determination of the director of development services under division (C) of this section, the tax credit authority may grant the credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5747.02, or 5751.02 of the Revised Code.

The credit authorized in this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5736.02 or 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the Ohio employee payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority. The credit shall be claimed in the order required under section

5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the Ohio employee payroll for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement.

If a credit allowed under this section for a taxable year or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development services shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the superintendent of insurance in the case of an insurance company, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority. The authority shall also forward a copy of the application to the director of development services, who shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

(D) Upon review and consideration of the determinations and recommendations described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if the authority determines all of the following:

(1) The taxpayer's capital investment project will result in the retention of employment in this state.

(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(E) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated Ohio employee payroll to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) A requirement that the taxpayer retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, or a requirement that the taxpayer maintain an annual Ohio employee payroll of at least thirty-five million dollars for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of development services full-time equivalent employees, Ohio employee payroll, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development services annually review the annual reports of the taxpayer to verify the information reported under division (E) (5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that

the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(G) Financial statements and other information submitted to the department of development services or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, or the superintendent of insurance in the case of an insurance company, the chairperson of the authority shall provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the cer-

tificate to the commissioner or superintendent within thirty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J)

(1) If the director of development services determines that a taxpayer that received a certificate under division (E)(6) of this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, to refund to the state all or a portion of the credit claimed in previous years, as follows:

(a) If the taxpayer fails to comply with the requirement under division (E)(3) of this section, an amount determined in accordance with the following:

(i) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(ii) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, the amount required to be refunded shall not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

(b) If the taxpayer fails to substantially maintain both the number of full-time equivalent employees and the amount of Ohio employee payroll required under the agreement at any time during the term of the agree-

ment or during the post-term reporting period, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (J)(1)(a) or (b) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer, or any related member or members who claimed the tax credit under division (N) of this section, is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(K) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the business assistance fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax

credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M) The aggregate amount of nonrefundable tax credits issued under this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:

(1) For 2010, thirteen million dollars;

(2) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;

(3) For 2024 and each year thereafter, one hundred ninety-five million dollars.

The limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

(N) This division applies only to an eligible business that is part of an affiliated group that includes a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, as those terms are defined in section 5726.01 of the Revised Code. Notwithstanding any contrary provision of the agreement between such an eligible business and the tax credit authority, any credit granted under this section against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the eligible business, at the election of the eligible business and without any action by the tax credit authority, may be shared with any member or members of the affiliated group that includes the eligible business, which member or members may claim the credit against the taxes imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. Credits shall be claimed by the eligible business in sequential order, as applicable, first claiming the credits to the fullest extent possible against the tax that the certificate holder is subject to, then against the tax imposed by, sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 of the Revised Code. The credits may be allocated among the members of the affiliated group in such manner as the eligible business elects, but subject to the sequential order required under this division. This division applies to credits granted before, on, or after March 27, 2013, the effective date of H.B. 510 of the 129th general assembly. Credits granted before

that effective date that are shared and allocated under this division may be claimed in those calendar years in which the remaining taxable years specified in the agreement end.

As used in this division, "affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

(O)

(1) As used in division (O) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (E)(5) of this section.

(c) "Income tax revenue" has the same meaning as under division (S) of section 122.17 of the Revised Code.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (O)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of this section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of this section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (O)(3) of this section shall not apply unless all of the following apply with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the job retention commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the payroll retention commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (O)(4) (a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (O) of this section for an ensuing reporting period.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. TBD, HB 492, §1, eff. 9/17/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 186, HB 510, §1, eff. 3/27/2013.

Amended by 129th General Assembly File No. 129, SB 314, §1, eff. 9/28/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 129th General Assembly File No. 3, HB 58, §1, eff. 3/7/2011.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 09-26-2003; 06-30-2005; 03-30-2006; 2006 HB699 03-29-2007; 2007 HB119 06-30-2007; 2008 HB562 09-22-2008

Related Legislative Provision: See 130th General Assembly File No. TBD, HB 492, §4.

## ORC 166.21 – Lending Moneys in Research and Development Loan Fund

(A) The director of development services, with the approval of the controlling board and subject to other applicable provisions of this chapter, may lend moneys in the research and development loan fund to persons for the purpose of paying allowable costs of eligible research and development projects, if the director determines that all of the following conditions are met:

(1) The project is an eligible research and development project and is economically sound;

(2) The amount to be lent from the research and development loan fund will not exceed seventy-five per cent of the total costs of the eligible research and development project;

(3) The repayment of the loan from the research and development loan fund will be secured by a mortgage, assignment, pledge, lien provided for under section 9.661 of the Revised Code, or other interest in property or other assets of the borrower, at such level of priority and value as the director considers necessary, provided that, in making such a determination, the director shall take into account the value of any rights granted by the borrower to the director to control the use of any assets of the borrower under the circumstances described in the loan documents.

(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director.

(C) Fees, charges, rates of interest, times of payment of interest and principal, and other terms and conditions of, and security for, loans made from the research and development loan fund shall be such as the director determines to be appropriate and in furtherance of the purpose for which the loans are made. The moneys used in making loans shall be disbursed from the fund upon order of the director. Unless otherwise specified in any indenture or other instrument securing obligations under division (D) of section 166.08 of the Revised Code, any payments of principal and interest from loans made from the fund shall be paid to the fund and used for the purpose of making loans under this section.

(D)

(1) As used in this division, “qualified research and development loan payments” means payments of principal and interest on a loan made from the research and development loan fund.

(2) Each year, the director may, upon request, issue a certificate to a borrower of moneys from the research and development loan fund indicating the amount of the qualified research and development loan payments made by or on behalf of the borrower during the calendar year immediately preceding the tax year, as defined in section 5733.04 of the Revised Code, or taxable year, as defined in section 5747.01 of the Revised Code, for which the certificate is issued. In addition to indicating the amount of qualified research and development loan payments, the certificate shall include a determination of the director that as of the thirty-first day of December of the calendar year for which the certificate is issued, the borrower is not in default under the loan agreement, lease, or other instrument governing repayment of the loan, including compliance with the job creation and retention commitments that are part of the qualified research and development project. If the director determines that a borrower is in default under the loan agreement, lease, or other instrument governing repayment of the loan, the director may reduce the amount, percentage, or term of the credit allowed under section 5733.352, 5747.331, or 5751.52 of the Revised Code with respect to the certificate issued to the borrower. The director shall not issue a certificate in an amount that exceeds one hundred fifty thousand dollars.

(E) The director may take actions necessary or appropriate to collect or otherwise deal with any loan made under this section.

(F) The director may fix service charges for the making of a loan. The charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director.

(G)

(1) There shall be credited to the research and development loan fund moneys received by this state from the repayment of loans, including interest thereon, made from the fund, and moneys received from the sale, lease, or other disposition of property acquired or constructed with moneys in the fund derived from the proceeds of the sale of obligations under section 166.08 of the Revised Code. Moneys in the fund shall be applied as provided in this chapter pursuant to appropriations made by the general assembly.

(2) In addition to the requirements in division (G)(1) of this section, moneys referred to in that division may be deposited to the credit of separate accounts estab-

lished by the director of development services within the research and development loan fund or in the bond service fund and pledged to the security of obligations, applied to the payment of bond service charges without need for appropriation, released from any such pledge and transferred to the research and development loan fund, all as and to the extent provided in the bond proceedings pursuant to written directions of the director . Accounts may be established by the director in the research and development loan fund for particular projects or otherwise. The director may withdraw from the fund or, subject to provisions of the applicable bond proceedings, from any special funds

established pursuant to the bond proceedings, or from any accounts in such funds, any amounts of investment income required to be rebated and paid to the federal government in order to maintain the exemption from federal income taxation of interest on obligations issued under this chapter, which withdrawal and payment may be made without the necessity for appropriation.

Amended by 130th General Assembly File No. TBD, HB 492, §1, eff. 9/17/2014.

Effective Date: 07-09-2003; 03-23-2005

## ORC 5701.11 – References to Internal Revenue Code – Election of Taxable Year

The effective date to which this section refers is the effective date of this section as amended by H.B. 58 of the 129th general assembly.

(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to the Internal Revenue Code, to the Internal Revenue Code “as amended,” to other laws of the United States, or to other laws of the United States, “as amended,” means the Internal Revenue Code or other laws of the United States as they exist on the effective date.

(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.

(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer’s taxable year ending after December 15, 2010, and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise

apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.

(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.

Amended by 129th General Assembly File No. 3, HB 58, § 1, eff. 3/7/2011.

Amended by 128th General Assembly File No. 55, HB 495, § 1, eff. 12/15/2010.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 2006 HB530 03-30-2006; 2006 HB699 12-28-2006; 2007 HB157 12-21-2007; 2008 HB458 12-31-2008

See 128th General Assembly File No. 55, HB 495, §4.

## **ORC 5703.057(A) – Commissioner May Require Identifying Information**

(A) For the efficient administration of the taxes and fees administered by the tax commissioner, the commissioner may require that any person filing a tax document with the department of taxation provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by

the commissioner. A person required by the commissioner to provide identifying information who has experienced any change with respect to that information shall notify the commissioner of the change prior to, or upon, filing the next tax document requiring such identifying information.

## **ORC 5703.25 – Returns, Claims and Reports Not to Be Sworn to – Perjury Statement**

All tax returns, claims, or reports with respect to taxes, including accompanying schedules and statements, which are required by law to be filed with the department of taxation, the treasurer of state, a county auditor, or a county treasurer need not be sworn to. Any such return, claim, or report shall have printed on it the following statement, which shall be subscribed to by the person signing such return, claim, or report: “I

declare under penalties of perjury that this return or claim (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return and report.”

Effective Date: 07-01-1985

## ORC 5709.65(A)(4) & (5) – Entitlement to Tax Incentives

(A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of day-care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code on a corporate enterprise, or against the aggregate amount of tax imposed on the owners of a noncorporate enterprise under section 5747.02 of the Revised Code, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to day-care centers licensed by the department of job and family services for day-care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this divi-

sion. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed on a corporate enterprise by section 5733.06 of the Revised Code, or against the aggregate amount of tax imposed on the owners of a noncorporate enterprise under section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141. of the Revised Code.

## ORC 5709.66(B) – Applying for Employee Tax Credit Certificate

(B)

(1) If the director determines an enterprise to be eligible under division (A) of this section, the director shall determine if the enterprise is entitled to an employee tax credit certificate. An enterprise is entitled to an employee tax credit certificate for each eligible employee the enterprise hires. A taxpayer who is issued an employee tax credit certificate under this section may claim a nonrefundable credit of one thousand dollars against the taxpayer's aggregate tax liability under either section 5733.06 or 5747.02 of the Revised Code for each taxable year of the agreement entered into under section 5709.62 or 5709.63 of the Revised Code in which an eligible employee is employed for the taxpayer's full taxable year. If the eligible employee is employed for less than the taxpayer's full taxable year, the taxpayer may claim a reduced credit against the aggregate amount of tax due under either section 5733.06 or 5747.02 of the Revised Code. The reduced credit shall be computed by dividing the total number of days in the taxable year into one thousand dollars and multiplying the quotient by the number of days the eligible employee was employed in the taxable year. For purposes of the computation, the eligible employee shall be deemed to have been employed for each day of the taxable year commencing on the date of employment or ending on the date of termination of employment.

The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner

or shareholder by name and social security number and shall be filed with the tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

The taxpayer shall claim the credit in the order required under section 5733.98 or 5747.98 of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding taxable year.

(2) As used in this division:

(a) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a participant of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or a recipient of general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in which the facility is located. "Eligible employee" does not include any employee of the enterprise who is a new employee, as defined under section 122.17 of the Revised Code, on the basis of whom the enterprise has claimed a credit under that section.

(b) "Taxable year" has the same meaning as in section 5733.04 or 5747.01 of the Revised Code, as applicable to the enterprise claiming the credit.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 11/15/2015.

Effective Date: 10-01-1997

## ORC 5747.01(A) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor’s benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary’s taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust’s taxable in-

come for any of the trust’s taxable years beginning in 2002 or thereafter. “Undistributed net income of a trust” means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer’s spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer’s spouse, or to

any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise

allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any

pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A) (20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's military service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A) (26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any loss from wagering transactions that is allowed as an itemized deduction under section 165 of the Internal Revenue Code and that the taxpayer deducted in computing federal taxable income.

## ORC 5747.01(A)(1) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

## ORC 5747.01(A)(2) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

## ORC 5747.01(A)(3) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

## ORC 5747.01(A)(4) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(4) Deduct disability and survivor’s benefits to the extent included in federal adjusted gross income.

## ORC 5747.01(A)(5) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

## ORC 5747.01(A)(7) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

defined and used in the Internal Revenue Code, adjusted as provided in this section:

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

## ORC 5747.01(A)(8)(9) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

## ORC 5747.01(A)(9) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

## ORC 5747.01(A)(10) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

## ORC 5747.01(A)(10)&(19) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

## ORC 5747.01(A)(11) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer’s spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer’s spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the

“Social Security Act,” 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11) (a) of this section, “subsidized health plan” means a health plan for which the employer pays any portion of the plan’s cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer’s spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer’s federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a “qualifying relative” and thus a “dependent” under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

## ORC 5747.01(A)(12)(a) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

## ORC 5747.01(A)(12)(b) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(12)(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

## ORC 5747.01(A)(13) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer’s adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer’s adjusted gross income for the current or any other taxable year.

## ORC 5747.01(A)(14) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

defined and used in the Internal Revenue Code, adjusted as provided in this section:

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer’s federal adjusted gross income.

## ORC 5747.01(A)(15) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

## ORC 5747.01(A)(16) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer’s federal adjusted gross income as required to be reported for the taxpayer’s taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer’s federal adjusted gross income as required to be reported for any of the taxpayer’s taxable years under the Internal Revenue Code.

## ORC 5747.01(A)(17) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner’s opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

## ORC 5747.01(A)(20) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer’s proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person’s proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, “qualifying section 179 depreciation expense” means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer

under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

## ORC 5747.01(A)(21) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable

year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

## ORC 5747.01(A)(22)&(23) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

## ORC 5747.01(A)(24) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as de-

finied and used in the Internal Revenue Code, adjusted as provided in this section:

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

## ORC 5747.01(A)(25) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio

adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) “Human organ” means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) “Qualified organ donation expenses” means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer’s donation, while living, of one or more of the taxpayer’s human organs to another human being.

## ORC 5747.01(A)(26) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, or the

national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer’s death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer’s military service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer’s military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a taxpayer’s adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A) (26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

## ORC 5747.01(A)(27) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) “Adjusted gross income” or “Ohio adjusted gross income” means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

## ORC 5747.01(A)(30) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross

income for the taxable year, Ohio college opportunity or federal Pell grant amounts received by the taxpayer or the taxpayer's spouse or dependent pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 1070a, et seq., and used to pay room or board furnished by the educational institution for which the grant was awarded at the institution's facilities, including meal plans administered by the institution. For the purposes of this division, receipt of a grant includes the distribution of a grant directly to an educational institution and the crediting of the grant to the enrollee's account with the institution.

## ORC 5747.01(A)(31)(b) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(31)

(b) For taxable years beginning in 2016 or thereafter, deduct from the portion of an individual's adjusted gross income that is business income, to the extent not otherwise deducted or excluded in computing federal adjusted gross income for the taxable year, one hundred twenty-five thousand dollars for each spouse if spouses file separate returns under section 5747.08 of the Revised Code or two hundred fifty thousand dollars for all other individuals.

## ORC 5747.01(A)(32) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other

laws of the United States relating to federal income taxes.

As used in this chapter:

(32) Deduct, as provided under section 5747.78 of the Revised Code, contributions to ABLE savings accounts made in accordance with sections 113.50 to 113.56 of the Revised Code.

# ORC 5747.01(HH) – Income Tax Definitions

“Taxable business income” means the amount by which an individual’s business income that is included in federal adjusted gross income exceeds the amount

of business income the individual is authorized to deduct under division (A)(31) of this section for the taxable year.

## ORC 5747.01(I) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(I) “Resident” means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust’s current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust’s qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust’s current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument

became irrevocable, but only if at least one of the trust’s qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust’s current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, “qualifying beneficiary” has the same meaning as “potential current beneficiary” as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust “qualifying beneficiary” is any current, future, or contingent beneficiary, but with respect to any trust “qualifying beneficiary” excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust’s assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust’s assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust’s assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities.

ties, from sources enumerated in division (1)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (1)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (1)(3)(a)(i) of this section:

(i) A trust is described in division (1)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (1)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (1)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (1)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

## ORC 5747.01(J) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other

laws of the United States relating to federal income taxes.

As used in this chapter:

(J) “Nonresident” means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

## **ORC 5747.01(M) – Income Tax Definitions**

(M) “Taxable year” means the calendar year or the taxpayer’s fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

## ORC 5747.01(R) – Income Tax Definitions

Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other

laws of the United States relating to federal income taxes.

As used in this chapter:

(R) “Overpayment” means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

## ORC 5747.02(A) – Tax Rates

(A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured as prescribed in divisions (A)(1) to (4) of this section.

(1) In the case of trusts, the tax imposed by this section shall be measured by modified Ohio taxable in-

come under division (D) of this section and levied at the same rates prescribed in division (A)(3) of this section for individuals.

(2) In the case of estates, the tax imposed by this section shall be measured by Ohio taxable income and levied at the same rates prescribed in division (A)(3) of this section for individuals.

(3) In the case of individuals, for taxable years beginning in 2015 or thereafter, the tax imposed by this section on income other than taxable business income shall be measured by Ohio adjusted gross income, less taxable business income and less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code. The tax imposed on the balance thus obtained is hereby levied as follows:

OHIO ADJUSTED GROSS INCOME LESS TAXABLE BUSINESS INCOME AND EXEMPTIONS (INDIVIDUALS) OR MODIFIED OHIO TAXABLE INCOME (TRUSTS) OR OHIO <u>TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>
\$5,000 or less .....	.495%
More than \$5,000 but not more than \$10,000 .....	\$24.75 plus .990% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000 .....	\$74.25 plus 1.980% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000 .....	\$173.25 plus 2.476% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000 .....	\$297.05 plus 2.969% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000 .....	\$890.85 plus 3.465% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000 .....	\$2,276.85 plus 3.960% of the amount in excess of \$80,000

More than \$100,000 but not more than \$200,000 .....	\$3,068.85 plus 4.597% of the amount in excess of \$100,000
More than \$200,000 .....	\$7,665.85 plus 4.997% of the amount in excess of \$200,000

(4)

(a) In the case of individuals, for taxable years beginning in 2015, the tax imposed by this section on taxable business income shall be measured by taxable business income less any amount allowed

under division (A)(4)(c) of this section. The tax imposed on the balance thus obtained is hereby levied as follows:

<u>TAXABLE BUSINESS INCOME LESS ALLOWED EXEMPTION AMOUNT</u>	<u>TAX</u>
\$ 5,000 or less .....	.495%
More than \$5,000 but not more than \$10,000 .....	\$24.75 plus .990% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000 .....	\$74.25 plus 1.980% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000 .....	\$173.25 plus 2.476% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000 .....	\$297.05 plus 2.969% of the amount in excess of \$20,000
More than \$ 40,000 .....	\$890.85 plus 3% of the amount in excess of \$40,000

(b) In the case of individuals, for taxable years beginning in 2016 or thereafter, the tax imposed by this section on taxable business income shall equal three percent of the result obtained by subtracting any amount allowed under division (A)(4) (c) of this section from the individual's taxable business income.

prescribed in division (A)(3) of this section by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the new adjustment of the income amounts. The rates of taxation shall not be adjusted.

(c) If the exemptions allowed to an individual under division (A)(3) of this section exceed the taxpayer's Ohio adjusted gross income less taxable business income, the excess shall be deducted from taxable business income before computing the tax under division (A)(4)(a) or (b) of this section.

Except as otherwise provided in this division, in August of each year, the tax commissioner shall make a new adjustment to the income amounts

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made and to taxable years beginning in each ensu-

ing calendar year until a calendar year in which a new adjustment is made pursuant to this division. The tax commissioner shall not make a new adjustment in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year. The commissioner shall not make a new adjustment for taxable years beginning in 2013, 2014, or 2015.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under divisions (A)(1) to (3) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

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

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

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

(2) A resident trust may claim a credit against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the resident trust's modified nonbusiness income, other than the portion of the resident trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the resident trust's modified nonbusiness income other than the portion of the resident trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (10) and (A)(19) to (21) of section 5747.98 of the Revised Code do not apply to a trust subject to division (D) of this section. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to division (D) of this section.

To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

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

Amended by 131st General Assembly File No. TBD, HB 182, §1, eff. 9/13/2016.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 11/15/2015.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. TBD, HB 483, §101.01, eff. 9/15/2014.

Amended by 130th General Assembly File No. 41, HB 72, §1, eff. 10/31/2013.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 65, SB 117, §1, eff. 3/22/2012.

Amended by 128th General Assembly File No. 38, HB 519, §1, eff. 9/10/2010.

Amended by 128th General Assembly File No. 11, HB 318, §1, eff. 12/22/2009.

Effective Date: 09-26-2003; 06-30-2005; 2008 HB562 09-22-2008; 2008 SB196 07-06-2009 .

Related Legislative Provision: See 131st General Assembly File No. TBD, SB 208, §5.

See 130th General Assembly File No. 25, HB 59, §803.80.

## **ORC 5747.022 – Tax Credits for Exemptions**

An individual subject to the tax imposed by section 5747.02 of the Revised Code may claim a credit equal to twenty dollars times the number of exemptions allowed for the taxpayer, his spouse, and each dependent under section 5747.02 of the Revised Code. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. The credit shall not

be considered in determining the taxes required to be withheld under section 5747.06 of the Revised Code or the estimated taxes required to be paid under section 5747.09 of the Revised Code.

Effective Date: 07-22-1994

## ORC 5747.025 – Personal Exemptions

(A) The personal exemption for the taxpayer and the taxpayer's spouse shall be seven hundred fifty dollars each for the taxable year beginning in 1996, eight hundred fifty dollars each for the taxable year beginning in 1997, nine hundred fifty dollars each for the taxable year beginning in 1998, and one thousand fifty dollars each for the taxable year beginning in 1999 and taxable years beginning after 1999. The personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner prescribed in division (C) of this section.

(B) The personal exemption for each dependent shall be eight hundred fifty dollars for the taxable year beginning in 1996, and one thousand fifty dollars for the taxable year beginning in 1997 and taxable years beginning after 1997. The personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner prescribed in division (C) of this section.

(C) In September of each year, beginning in 2000, the tax commissioner shall determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the preceding calendar year to the last day of December of the preceding year, and adjust the personal exemption amount for taxable years beginning in the current calendar year by multiplying that amount by the percentage increase in the gross domestic product deflator for that period; adding the resulting product to the personal exemption amount for taxable years beginning in the preceding calendar year; and rounding the resulting sum upward to the nearest multiple of fifty dollars. The commissioner shall not make such an adjustment in any calendar year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding calendar year.

Effective Date: 09-06-2002

## ORC 5747.04 – Attributing Tax Receipts to County

All reports, returns, and payments required of a taxpayer or employer by this chapter, except payments by electronic funds transfer as required under section 5747.072 of the Revised Code, shall be filed with the tax commissioner.

Upon receipt by him of any payments under this chapter arising from a tax imposed under section 5747.02 of the Revised Code, the commissioner shall estimate and annually reconcile and determine for any amount paid by or on behalf of any taxpayer and for any amount shown due or owed to any taxpayer, the county to which such amount is attributable. The county of attribution is the county in which the taxpayer was a resident for one more than half of the number of days of the payroll period during which any income subject

to taxation under this chapter was earned or, in the case of a nonresident taxpayer, his principal county of employment. If there is no payroll period to which such income can be attributed, the county of attribution is the county in which the taxpayer resided at the time he received such income.

The commissioner shall adopt such rules, including a requirement that each taxpayer indicate his school district of residence on his tax return, as are reasonably necessary to insure the efficient administration of this section and the distribution required by division (B) of section 5747.03 of the Revised Code.

Effective Date: 03-19-1993

## ORC 5747.05(A)(1)&(2) – Tax Credits

As used in this section, “income tax” includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:

(A)(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of any nonresident taxpayer that is not allocable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code;

(2) The credit provided under this division shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the nonresident taxpayer’s adjusted gross income not allocated to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code bears to the total adjusted gross income of the nonresident taxpayer derived from all sources everywhere.

## ORC 5747.05(B)(1)&(2) – Tax Credits

As used in this section, “income tax” includes both a tax on net income and a tax measured by net income.

The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:

(B) The lesser of division (B)(1) or (2) of this section:

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised

Code that the amount of the resident taxpayer’s adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

## ORC 5747.05(E) – Tax Credits

(E)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the lesser of six hundred fifty dollars or the percentage shown in column B that corresponds

with the taxpayer's adjusted gross income, less exemptions for the taxable year, of the total amount of tax due after allowing for any other credit that precedes this credit as required under section 5747.98 of the Revised Code :

A. If the adjusted gross income less exemptions for the new year is:

B. The credit for the taxable year is:

\$25,000 or less	20%
More than \$25,000 but not more than \$50,000	15%
More than \$50,000 but not more than \$75,000	10%
More than \$75,000	5%

(2) The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

## ORC 5747.054 – Tax Credit Based on Federal Dependent Care Credit

As used in this section, “adjusted gross income” means adjusted gross income as defined in section 5747.01 of the Revised Code.

For taxable years ending on or after January 1, 1988, in addition to all other credits allowed by this chapter, a credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for taxpayers with adjusted gross income of less than thirty thousand dollars; and, for taxable years beginning on or after January 1, 1993, for taxpayers with adjusted gross income of less than forty thousand dollars. The amount of the credit shall equal twenty-five per cent of the federal dependent care credit for which the taxpayer is eligible for the taxable year under section 21 of the In-

ternal Revenue Code, 26 U.S.C.A. 21 ; except that, for taxable years beginning on or after January 1, 1997, the amount of the credit for a taxpayer with adjusted gross income of less than twenty thousand dollars shall equal the federal credit for which the taxpayer is eligible, in any case without regard to any limitation imposed by section 26 U.S.C.A. 26 of the Internal Revenue Code, 26 U.S.C.A. 26.

The credit allowed by this section shall be claimed in the order required under section 5747.98 of the Revised Code.

Effective Date: 06-30-1997

## ORC 5747.055(A)(1) & (B) – Tax Credit for Retirement Income

(A) As used in this section “retirement income” means retirement benefits, annuities, or distributions that are made from or pursuant to a pension, retirement, or profit-sharing plan and that:

(1) In the case of an individual, are received by the individual on account of retirement and are included in the individual’s adjusted gross income;

(B) A credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for taxpayers who received retirement income during the taxable year. Only one such credit shall be allowed for each return, and the amount of the credit shall be computed

in accordance with the following schedule, subject to the limitation provided in division (F) of this section:

<b>Amount of Retirement Income Received During the Taxable Year</b>	<b>Credit for the Taxable Year</b>
\$500 or less.....	\$ 0
Over \$500 but not more than \$1,500.....	\$ 25
Over \$1,500 but not more than \$3,000.....	\$ 50
Over \$3,000 but not more than \$5,000.....	\$ 80
Over \$5,000 but not more than \$8,000.....	\$ 130
Over \$8,000.....	\$ 200

## ORC 5747.055(C),(D)&(E) – Tax Credit for Retirement Income

(C) At the election of a taxpayer who receives a lump-sum distribution from a pension, retirement, or profit-sharing plan within one taxable year, the credit allowed by this section for that year shall be computed as follows:

(1) Divide the amount of retirement income received during the taxable year by the taxpayer's expected remaining life on the last day of the taxable year, as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year that includes the last day of the taxable year;

(2) Using the quotient thus obtained as the amount of retirement income received during the taxable year, compute the credit for the taxable year in accordance with division (B) of this section;

(3) Multiply the credit thus obtained by the taxpayer's expected remaining life. The product thus obtained shall be the credit under this division for the taxable year. A taxpayer who elects to receive a credit under this division is not entitled to receive a credit under this section for any subsequent year except as provided in divisions (D) and (E) of this section.

(D) If the credit under division (C) or (E) of this section exceeds the tax due for the taxable year after allowing for any other credit that precedes that credit in the order required under section 5747.98 of the Revised Code, the taxpayer may elect to receive a credit for each subsequent taxable year. The amount of the

credit for each such year shall be computed as follows:

(1) Determine the amount by which the unused credit elected under division (C) or (E) of this section exceeded the tax due for the taxable year after allowing for any preceding credit in the required order;

(2) Divide the amount of such excess by one year less than the taxpayer's expected remaining life on the last day of the taxable year of the distribution for which the credit was allowed under division (C) or (E) of this section. The quotient thus obtained shall be the credit for each subsequent year.

(E) If subsequent to the receipt of a lump-sum distribution and an election under division (C) of this section an individual receives another lump-sum distribution within one taxable year, the taxpayer may elect to receive a credit for that taxable year. The credit shall equal the lesser of:

(1) A credit computed in the manner prescribed in division (C) of this section;

(2) The amount of credit, if any, to which the taxpayer would otherwise be entitled for the taxable year under division (D) of this section times the taxpayer's expected remaining life on the last day of the taxable year. A taxpayer who elects to receive a credit under this division is not entitled to a credit under this section for any subsequent year except as provided in division (D) of this section.

## **ORC 5747.055(F) – Tax Credit for Retirement Income**

(F) A credit equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code shall be allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for taxpayers sixty-five years of age or older during

the taxable year whose adjusted gross income, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars for that taxable year.

## ORC 5747.055(G) – Tax Credit for Retirement Income

(G) A taxpayer sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in the taxable year, and whose adjusted gross income, less applicable exemptions under section 5747.025 of the Revised Code, as shown on an individual or joint annual return is less than one hundred thousand dollars for that taxable year may elect to receive a credit under this division in lieu of the credit to which the taxpayer is entitled under division (F) of this section. A taxpayer making such an election shall

receive a credit for the taxable year against the taxpayer's aggregate tax liability under section 5747.02 of the Revised Code equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the Internal Revenue Code and in effect for the calendar year that includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under this division or division (F) of this section in subsequent taxable years.

## **ORC 5747.056 – Tax Credit for Persons With Ohio AGI of \$10,000 or Less**

For taxable years beginning in 2005 or thereafter, a credit shall be allowed per return against the tax imposed by section 5747.02 of the Revised Code for a return not filed by an estate or trust that indicates Ohio adjusted gross income less exemptions of ten thousand dollars or less. For taxable years beginning in 2005, the credit shall equal one hundred seven dollars. For taxable years beginning in 2006, the credit shall equal one hundred two dollars. For taxable years beginning in 2007, the credit shall equal ninety-eight

dollars. For taxable years beginning in 2008, 2009, or 2010, the credit shall equal ninety-three dollars. For taxable years beginning in 2011 or thereafter, the credit shall equal eighty-eight dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

Amended by 128th General Assembly File No. 11, HB 318, § 1, eff. 12/22/2009.

Effective Date: 06-30-2005; 03-30-2006

## **ORC 5747.058 – Tax Credits to Foster Job Creation or Retention**

(A) A refundable income tax credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employ-

ment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

Effective Date: 12-13-2001

## **ORC 5747.059 – Tax Credit for Ohio Withholding Tax Paid by One or More Qualifying Pass-Through Entities**

(A) This section applies only to reduce the tax imposed by section 5747.02 of the Revised Code.

(B) There is hereby allowed a refundable credit against the tax imposed under section 5747.02 of the Revised Code. This credit shall be equal to the taxpayer's proportionate share of the lesser of either the tax due or the tax paid under section 5733.41 or 5747.41 of the Revised Code by any qualifying entity as defined in section 5733.40 of the Revised Code for the qualifying taxable year of the qualifying entity which ends in the taxable year of the taxpayer.

(C) The taxpayer shall claim the credit for the taxpayer's taxable year in which ends the qualifying entity's qualifying taxable year. For purposes of making tax payments under this chapter, taxes equal to the amount of the credit shall be considered to be paid by the taxpayer to this state on the day that the qualifying entity pays to the treasurer of state the amount due

pursuant to section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code with respect to and for the taxpayer.

(D) In claiming the credit and determining the taxpayer's proportionate share of the tax due and the tax paid by any qualifying entity, the taxpayer shall follow the concepts set forth in subchapters J and K of the Internal Revenue Code.

(E) The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the amount of the credit under this section exceeds the amount of tax otherwise due under section 5747.02 of the Revised Code after deduction of all other credits in that order, the taxpayer is entitled to a refund of the excess.

Effective Date: 06-30-1997

## ORC 5747.08(E) – Filing Income Tax Return

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

If either spouse is not required to file a federal income tax return and either or both are required to file a return

pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on the taxpayer's own return.

## **ORC 5747.08(F) – Filing Income Tax Return**

(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.

## ORC 5747.08(G) – Filing Income Tax Return

(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, unless the combined amount shown to be due is one dollar or less, in which case that amount need not be remitted.

Upon good cause shown, the tax 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 ac-

tual 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 the Revised Code, whichever occurs first.

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

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

## **ORC 5747.08(H) – Filing Income Tax Return**

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

## ORC 5747.08(I) – Filing Income Tax Return

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

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

## ORC 5747.08(J) – Filing Income Tax Return

(J) The tax commissioner shall ensure that each return required to be filed under this section includes a box that the taxpayer may check to authorize a paid tax preparer who prepared the return to communicate with the department of taxation about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the department of taxation to contact the preparer concerning questions that arise

during the processing of the return and authorizes the preparer only to provide the department with information that is missing from the return, to contact the department for information about the processing of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the department and has shown to the preparer.

## ORC 5747.081 – Designating Contribution to Political Party Fund

An individual whose state income tax liability for a tax year is one dollar or more may designate that one dollar be paid into the Ohio political party fund to be divided among qualifying political parties. If a husband and wife who file a joint tax return have a tax liability of two dollars or more, each spouse may designate that one dollar be paid into the fund. The tax commissioner shall provide, on the face of the individual in-

come tax return form, a place where a taxpayer may make the designation authorized in this section. The tax commissioner shall include language informing the taxpayer of the purpose of the designation and indicating that a designation will not increase or decrease the taxpayer's tax liability.

Effective Date: 10-20-1987

## **ORC 5747.083 – Report or Payment on Use Tax on Personal Income Tax Return**

The tax commissioner may not require the taxpayer, as a part of the taxpayer's personal income tax return, to report or pay use tax for any purchase made during the tax year on which the taxpayer has paid any sales

tax to this state or any other state at the time of the purchase.

Effective Date: 06-21-2002

## **ORC 5747.09(A)(1) – Declaration of Estimated Taxes**

(A) As used in this section:

(1) “Estimated taxes” means the amount that the taxpayer estimates to be the taxpayer’s combined tax

liability under this chapter and Chapter 5748. of the Revised Code for the current taxable year.

## ORC 5747.09(A)(3) – Declaration of Estimated Taxes

(A) As used in this section:

(3) “Taxes paid” include payments of estimated taxes made under division (C) of this section, taxes withheld

from the taxpayer’s compensation, and tax refunds applied by the taxpayer in payment of estimated taxes.

## ORC 5747.09(D)&(E) – Declaration of Estimated Taxes

(D) In the case of any underpayment of estimated taxes, an interest penalty shall be added to the taxes for the tax year at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(1) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(2) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(3) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(4) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

The interest penalty imposed under division (D) of this section shall be in lieu of any other interest charge or penalty imposed for failure to file an estimated return and make estimated payments as required by this section.

(E) An underpayment of estimated taxes determined under division (D) of this section shall be due to reasonable cause and the interest penalty imposed by this section shall not be added to the taxes for the tax year if either of the following apply:

(1) The amount of tax that was paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due;

(2) The amount of tax that was paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return under section 5747.08 of the Revised Code for that year.

The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

Effective Date: 09-29-2000

## ORC 5747.10 – Amended Returns

If any of the facts, figures, computations, or attachments required in a taxpayer's annual return to determine the tax charged by this chapter or Chapter 5748. of the Revised Code must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under this chapter or Chapter 5748. of the Revised Code, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(A) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. An amended return required by this section is a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a

previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

(B) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return even if it is filed beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 5747.11 of the Revised Code. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 01-15-1993

## ORC 5747.11 – Refunds – Interest

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

(B) Except as otherwise provided under divisions (D) and (E) of this section, applications for refund shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (B)(3)(b) of section 5747.05, division (B) of section 5747.10, division (A) of section 5747.13, or division (C) of section 5747.45 of the Revised Code.

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

(C)

(1) Interest shall be allowed and paid at the rate per annum prescribed by section 5703.47 of the Revised Code on amounts refunded with respect to the tax imposed under section 5747.02 or Chapter 5748. of the Revised Code from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the return is filed, whichever is later, no interest shall be allowed on such overpayment. If the overpayment results from the carryback of a net operating loss or net capital loss to a previous taxable year, the overpayment is deemed not to have been made prior to the filing date, including any extension thereof, for the taxable year in which the net operating loss or net capital loss arises. For purposes of the payment of interest on overpayments, no amount of tax, for any taxable year, shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing such return.

(2) Interest shall be allowed at the rate per annum prescribed by section 5703.47 of the Revised Code on amounts refunded with respect to the taxes imposed under sections 5733.41 and 5747.41 of the Revised Code. The interest shall run from whichever of the

following days is the latest until the day the refund is paid: the day the illegal, erroneous, or excessive payment was made; the ninetieth day after the final day the annual report was required to be filed under section 5747.42 of the Revised Code; or the ninetieth day after the day that report was filed.

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

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

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

(E)

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

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

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

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

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

(2) A taxpayer shall file an application for refund pursuant to division (E) of this section within one year after the date the payment described in division (E)(1)(a) of this section is made. An application filed under division (E)(2) of this section shall claim refund only of overpayments resulting from the taxpayer’s failure to claim the credit described in division (E)(1)(c) of this section. Nothing in division (E) of this section shall be construed to relieve a taxpayer from complying with division (A)(16) of section 5747.01 of the Revised Code.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 09-29-1999; 12-31-200.

## ORC 5747.113 – Income Tax Refund Contribution System

(A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, the Ohio historical society income tax contribution fund created in section 149.308 of the Revised Code, the breast and cervical cancer project income tax contribution fund created in section 3701.601 of the Revised Code, or all of those funds may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio historical society income tax contribution fund, and the breast and cervical cancer project income tax contribution fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio historical society income tax contribution fund, or the breast and cervical cancer project income tax contribution fund.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio historical society income tax contribution fund, and the breast and cervical cancer project income tax contribution fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year, the tax commissioner shall determine the total amount contributed to each fund under this section during the preceding eight months, any adjustments to prior months, and the cost to the department of taxation of administering the income tax refund contribution system during that eight-month period. The commissioner shall make an additional determination no later than the thirty-first day of January of each year of the total amount contributed to each fund under this section during the preceding four calendar months, any adjustments to prior years made during that four-month period, and the cost to the department of taxation of administering the income tax contribution system during that period. The cost of administering the income tax contribution system shall be certified by the tax commissioner to the director of budget and management, who shall transfer an amount equal to one-fifth of such administrative costs from each of the five funds to the income tax contribution fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E) If the total amount contributed to a fund under this section in each of two consecutive calendar years is less than one hundred fifty thousand dollars, no person may designate a contribution to that fund for any taxable year ending after the last day of that two-year period. In such a case, the tax commissioner shall remove the space dedicated to the fund on the income tax return and the description of the fund in the instructions accompanying the income tax return.

(F) The general assembly may authorize taxpayer refund contributions to no more than six funds under the income tax refund contribution system established in this section. If the general assembly authorizes income tax refund contributions to a fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, the Ohio historical society income tax contribution fund, or

the breast and cervical cancer project income tax contribution fund, such contributions may be authorized only for a period of two calendar years.

With the exception of the Ohio historical society income tax contribution fund, the general assembly may authorize income tax refund contributions to a fund only if all the money in the fund will be expended or distributed by a state agency as defined in section 1.60 of the Revised Code.

(G)

(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services , the director of the Ohio historical society, and the director of health, in January of every odd-numbered year, each shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund , the Ohio historical society income tax contribution fund, and the breast and cervical cancer project income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Amended by 130th General Assembly File No. 36, HB 112, §1, eff. 10/11/2013, op. 1/1/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 02-11-1988; 06-30-2005

## ORC 5747.12 – Applying Refund To Satisfy Debt to State

If a person entitled to a refund under section 5747.11 or 5747.13 of the Revised Code is indebted to this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, certified claim under section 131.02 or 131.021 of the Revised Code, or fee that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium, unemployment compensation contribution, certified claim, or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code or arising under section 5747.063 or 5747.064 of the Revised Code shall be satisfied first. Except as provided in section 131.021 of the Revised Code, this section applies only to debts that have become final.

The tax commissioner may charge each respective agency of the state for the commissioner's cost in applying refunds to debts due to the state and may charge the attorney general for the commissioner's cost in applying refunds to certified claims. The commissioner may promulgate rules to implement this section. The rules may address, among other things, situations such as those where persons may jointly be entitled to a refund but do not jointly owe a debt or certified claim.

The commissioner may, with the consent of the taxpayer, provide for the crediting, against tax imposed under this chapter or Chapter 5748. of the Revised Code and due for any taxable year, of the amount of any refund due the taxpayer under this chapter or Chapter 5748. of the Revised Code, as appropriate, for a preceding taxable year.

Amended by 129th General Assembly File No. 126, HB 386, §1, eff. 6/11/2012.

Effective Date: 09-26-2003; 05-06-2005

## ORC 5747.15 – Failure to File or Remit Tax – Filing Frivolous, Dilatory or Fraudulent claim

(A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a taxpayer, qualifying entity, or employer required to file any report or return, including an informational notice, report, or return, under this chapter fails to make and file the report or return within the time prescribed, including any extensions of time granted by the tax commissioner, a penalty may be imposed not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the sum of the taxes required to be shown on the report or return, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which filed.

(2) If a taxpayer fails to pay any amount of tax required to be paid under section 5733.41 or Chapters 5747. or 5748. of the Revised Code, except estimated tax under section 5747.09 or 5747.43 of the Revised Code, by the dates prescribed for payment, a penalty may be imposed not exceeding twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(3)(a) If an employer fails to pay any amount of tax imposed by section 5747.02 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the interest charged under division (F)(5) of section 5747.07 of the Revised Code for the delinquent payment.

(b) If a qualifying entity fails to pay any amount of tax imposed by section 5733.41 or 5747.41 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(4)(a) If an employer withholds from employees the tax imposed by section 5747.02 of the Revised Code and fails to remit the tax withheld to the state as required by this chapter on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(b) If a qualifying entity withholds any amount of tax imposed under section 5747.41 of the Revised Code from an individual's qualifying amount and fails to remit that amount to the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(5) If a taxpayer, qualifying entity, or employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by section 5733.41, 5747.02, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of up to five hundred dollars may be imposed.

(6) If a taxpayer or qualifying entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A)(7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under section 5733.41, 5747.02, or 5747.41 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the provisions of this chapter or Chapter 5733. of the Revised Code, and without regard to any time limitation for the assessment imposed by division (A) of section 5747.13 of the Revised Code.

(B) For purposes of this section, the taxes required to be shown on the return shall be reduced by the amount of any part of the taxes paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Any penalty imposed under this section shall be in addition to all other penalties imposed under this section. All or part of any penalty imposed under this section may be abated by the commissioner. All or part of any penalty imposed under this section may be abated by the commissioner if the taxpayer, qualifying

entity, or employer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.

Effective Date: 12-21-2000

## ORC 5747.17 – Maintaining Records

The tax commissioner may prescribe requirements as to the keeping of records and other pertinent documents, and the filing of copies of federal income tax returns and determinations. The commissioner may require any person, by rule or notice served on such person, to keep such records as the commissioner determines necessary to show whether or not such person is liable, and the extent of liability, under this chapter or Chapter 5748. of the Revised Code, for tax or for

the withholding of tax. Such records and other documents shall be open to the commissioner's inspection during business hours and shall be preserved for a period of four years unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

Effective Date: 11-15-1981

## ORC 5747.24 – Presumption of Domicile

This section is to be applied solely for the purposes of Chapters 5747. and 5748. of the Revised Code.

(A) As used in this section :

(1) An individual “has one contact period in this state” if the individual is away overnight from the individual’s abode located outside this state and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in this state.

(2) An individual is considered to be “away overnight from the individual’s abode located outside this state” if the individual is away from the individual’s abode located outside this state for a continuous period of time, however minimal, beginning at any time on one day and ending at any time on the next day.

(B) (1) Except as provided in division (B)(2) of this section, an individual who during a taxable year has no more than one hundred eighty-two contact periods in this state, which need not be consecutive, and who during the entire taxable year has at least one abode outside this state, is presumed to be not domiciled in this state during the taxable year if, on or before the fifteenth day of the fourth month following the close of the taxable year, the individual files with the tax commissioner, on the form prescribed by the commissioner, a statement from the individual verifying that the individual was not domiciled in this state under this division during the taxable year. In the statement, the individual shall verify both of the following:

(a) During the entire taxable year, the individual was not domiciled in this state;

(b) During the entire taxable year, the individual had at least one abode outside this state. The individual shall specify in the statement the location of each such abode outside this state.

The presumption that the individual was not domiciled in this state is irrebuttable unless the individual fails to timely file the statement as required or makes a false statement. If the individual fails to file the statement as required or makes a false statement, the individual is presumed under division (C) of this section to have been domiciled in this state the entire taxable year.

In the case of an individual who dies before the statement would otherwise be due, the personal representative of the estate of the deceased individual may comply with this division by making to the best of the representative’s knowledge and belief the statement under division (B)(1) of this section with respect to the deceased individual, and filing the statement with the commissioner within the

later of the date the statement would otherwise be due or sixty days after the date of the individual’s death.

An individual or personal representative of an estate who knowingly makes a false statement under division (B)(1) of this section is guilty of perjury under section 2921.11 of the Revised Code.

(2) Division (B) of this section does not apply to an individual changing domicile from or to this state during the taxable year. Such an individual is domiciled in this state for that portion of the taxable year before or after the change, as applicable.

(C) An individual who during a taxable year has fewer than one hundred eighty-three contact periods in this state, which need not be consecutive, and who is not irrebuttably presumed under division (B) of this section to be not domiciled in this state with respect to that taxable year, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with a preponderance of the evidence to the contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide a preponderance of the evidence to the contrary.

(D) An individual who during a taxable year has at least one hundred eighty-three contact periods in this state, which need not be consecutive, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with clear and convincing evidence to the contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide clear and convincing evidence to the contrary.

(E) If the tax commissioner challenges the number of contact periods an individual claims to have in this state during a taxable year, the individual bears the burden of proof to verify such number, by a preponderance of the evidence. An individual challenged by the commissioner is presumed to have a contact period in this state for any period for which the individual does not prove by a preponderance of the evidence that the individual had no such contact period.

Effective Date: 12-21-2000; 04-04-2007

## **ORC 5747.27 – Credit for Displaced Worker Who Pays for Job Training to Enhance Ability to Get New Job**

As used in this section, “displaced worker” means an individual who has lost or left his job due to the closing or moving of the facility at which he was employed or the abolishment of his position or shift at that facility and who has not obtained another job at which he works more than twenty hours a week.

A nonrefundable credit is allowed against the tax imposed under section 5747.02 of the Revised Code for a displaced worker who pays for job training to enhance his ability to get a new job. The amount of the credit equals the lesser of five hundred dollars or fifty per cent of the amount paid for job training during the twelve-month period beginning when he loses or leaves his job and becomes displaced. However, if the worker receives reimbursement for his job training expenses from any source, the amount of the credit equals the lesser of five hundred dollars or fifty per

cent of the amount obtained by subtracting the reimbursement from the amount paid for job training during that twelve-month period. The credit shall be claimed for the taxable year in which the worker pays for the job training. If the twelve-month period after he loses or leaves his job extends over two taxable years and the worker pays for job training in both those taxable years, the worker may claim the credit for both those taxable years, but the aggregate amount claimed shall not exceed five hundred dollars. The worker shall claim the credit in the order required under section 5747.98 of the Revised Code. The credit for a taxable year shall not exceed the worker’s tax liability for that year after allowing for any other credit that precedes the credit under this section in that order.

Effective Date: 07-22-1994

# ORC 5747.28 – Credit for Purchase of Qualifying Property by Taxpayer Engaged in the Business of Producing Grapes

(A) As used in this section:

(1) "Qualifying property" means any property, plant, or equipment used to produce grapes in this state, and includes but is not limited to land and improvements to land, grape seeds and vines, stakes, wiring, tractors, and other machinery used in the growth, harvesting, or producing of grapes.

(2) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code, without regard to division (B) of that section.

(B) A nonrefundable credit is allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer engaged in the business of producing grapes who purchases qualifying property on or after January 1, 1994. The amount of the credit equals ten per cent of the cost of purchasing and installing or constructing the qualifying property. The taxpayer shall claim the credit in the taxable year in which the qualifying property is placed in operation. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code. The taxpayer may carry forward for the ensuing seven taxable years any credit amount in excess of its aggregate tax due under section 5747.02 of the Revised Code in the taxable year in which the qualifying property is placed

If the property is disposed of or ceases to be used as qualifying property within this amount of time after being placed in operation:

One year	100%
Two years	86%
Three years	72%
Four years	58%
Five years	44%
Six years	30%
Seven years	15%

(2) Division (C)(1) of this section does not apply in any of the following circumstances:

(a) The qualifying property is transferred to a related member and the related member continues to use the property to produce grapes in this state;

(b) The qualifying property is transferred to a family member and the family member continues to use the property to produce grapes in this state;

(c) There is an involuntary disposition of the qualifying property. The involuntary disposition may be due

in operation after allowing for any other credits that precede the credit under this section in that order, and shall deduct the amount of the excess credit allowed in any such year from the balance carried forward to the next year. However, if the taxpayer is subject to a recapture tax under division (C)(1) of this section because the taxpayer disposes of the qualifying property or ceases to use it as qualifying property during the seven-year recapture period prescribed under that division, the taxpayer may claim no credit in connection with that property in the taxable year of disposal or cessation or any ensuing taxable year.

(C)

(1) If, within the seven-year period after qualifying property is placed in operation, the taxpayer disposes of the property or ceases to use it as qualifying property, the amount of tax otherwise imposed on the taxpayer by section 5747.02 of the Revised Code shall be increased in the taxable year in which the property is disposed of or ceases to be used as qualifying property. The amount of the increase shall equal the recapture percentage multiplied by the aggregate credit the taxpayer has been allowed under this section in all prior taxable years in connection with that property. The recapture percentage shall be determined in accordance with the following table:

The recapture percentage is:

to, without limitation, a bankruptcy, a receivership, or destruction by natural forces.

(D) The tax commissioner, by rule, may prescribe guidelines for taxpayers to use in determining if their property is qualifying property for the purposes of this section.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 2/15/2015.

Effective Date: 07-22-1994

## **ORC 5747.29 – Contributions of Money to Candidates for Statewide Office or Member of General Assembly**

A nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for contributions of money made to the campaign committee of candidates for any of the following public offices: governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, chief justice of the supreme court, justice of the supreme court, or member of the general assembly. The amount of the credit for a taxable year equals the lesser of the combined total contributions made during the taxable year by each taxpayer filing a return required to be filed under section 5747.08 of the Revised Code or the amount of fifty dollars, in the case of an individual return, or one hundred dollars, in the case of a joint return.

As used in this section:

(A) "Candidate" has the same meaning as in division (B)(3) of section 3517.01 of the Revised Code, but is limited to candidates for the public offices specified in this section.

(B) "Contribution" has the same meaning as in division (B)(5) of section 3517.01 of the Revised Code, but is limited to contributions of money only.

The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code. The credit for a taxable year shall not exceed the tax otherwise due for that year after allowing for any other credits that precede the credit under this section in that order.

Effective Date: 08-23-1995

## **ORC 5747.33 – (Repealed)**

[Repealed]. Ohio Statutes Title [57] LVII TAXATION  
Chapter 5747: INCOME .....TAX Current with legisla-  
tion effective as of December 19, 2016 5747.33 [Re-

pealed]. Repealed by 130th General Assembly File  
No. 25 ...

## ORC 5747.331 – Nonrefundable Credit Equal to Borrower’s Qualified Research and Development Loan Payments

(A) As used in this section:

(1) “Borrower” means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.

(2) “Related member” has the same meaning as in section 5733.042 of the Revised Code.

(3) “Qualified research and development loan payments” has the same meaning as in section 166.21 of the Revised Code.

(B) Beginning with taxable years beginning in 2003, a nonrefundable credit is allowed against a taxpayer’s aggregate tax liability under section 5747.02 of the Revised Code equal to a borrower’s qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code and submits a copy of the certificate with its report for the taxable year. Failure to submit a copy of the certificate with the report does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate within sixty days after the tax commissioner requests it. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. No credit shall be allowed under this section if the credit was available against the tax imposed by Chapter 5751. of the Revised Code except to the extent the credit was not applied against that tax. The credit, to the extent it exceeds the taxpayer’s aggregate tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully used.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a shareholder in an S corporation, a partner in a partnership, or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer’s distributive or proportionate share of the credit available through the S corporation, partnership, or limited liability company.

(E) The aggregate credit against the taxes imposed by section 5747.02 and Chapter 5751. of the Revised Code that may be claimed under this section and section 5751.52 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 2/15/2015.

Amended by 130th General Assembly File No. TBD, HB 494, §1, eff. 3/23/2015.

Effective Date: 07-09-2003; 06-30-2005; 03-30-2006

Related Legislative Provision: See 130th General Assembly File No. TBD, HB 494, §3.

## ORC 5747.37 – Credit for Legally Adopted Minor Child

(A) As used in this section:

(1) “Minor child” means a person under eighteen years of age.

(2) “Legally adopt” means to adopt a minor child pursuant to Chapter 3107. of the Revised Code, or pursuant to the laws of any other state or nation if such an adoption is recognizable under section 3107.18 of the Revised Code. For the purposes of this section, a minor child is legally adopted when the final decree or order of adoption is issued by the proper court under the laws of the state or nation under which the child is adopted, or, in the case of an interlocutory order of adoption, when the order becomes final under the laws of the state or nation. “Legally adopt” does not include the adoption of a minor child by the child’s stepparent.

(B) There is hereby granted a credit against the tax imposed by section 5747.02 of the Revised Code for the legal adoption by a taxpayer of a minor child. The amount of the credit for each minor child legally adopted by the taxpayer shall equal the greater of the following:

(1) One thousand five hundred dollars;

(2) The amount of expenses incurred by the taxpayer and the taxpayer’s spouse to legally adopt the child, not to exceed ten thousand dollars. For the purposes of this division, expenses incurred to legally adopt a child include expenses described in division (C) of section 3107.055 of the Revised Code.

The taxpayer shall claim the credit for each child beginning with the taxable year in which the child was legally adopted. If the sum of the credit to which the taxpayer would otherwise be entitled under this section is greater than the tax due under section 5747.02 of the Revised Code for that taxable year after allowing for any other credits that precede the credit under this section in the order required under section 5747.98 of the Revised Code, such excess shall be allowed as a credit in each of the ensuing five taxable years, but the amount of any excess credit allowed in any such taxable year shall be deducted from the balance carried forward to the ensuing taxable year. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. For the purposes of making tax payments under this chapter, taxes equal to the amount of the credit shall be considered to be paid to this state on the first day of the taxable year.

The taxpayer shall provide to the tax commissioner any receipts or other documentation of the expenses incurred to legally adopt the child upon the request of the tax commissioner for the purpose of division (B)(2) of this section.

Amended by 130th General Assembly File No. TBD, SB 250, §1, eff. 3/23/2015.

Effective Date: 08-19-1999; 2007 SB20 08-30-2007

Related Legislative Provision: See 130th General Assembly File No. TBD, SB 250, §3.

Note: This section is set out twice. See also § 5747.37, effective until 3/23/2015.

## ORC 5747.65 – Tax Credit for FIT Tax

There is hereby allowed a refundable credit against the tax imposed under section 5747.02 of the Revised Code. The amount of the credit shall equal the taxpayer's proportionate share of the lesser of either the tax due or the tax paid for the tax imposed by section 5726.02 of the Revised Code by a pass-through entity for the pass-through entity's taxable year ending in the taxpayer's taxable year.

The taxpayer shall claim the credit for the taxpayer's taxable year that includes the last day of the pass-through entity's taxable year. For purposes of making tax payments under this chapter, taxes equal to the amount of the credit shall be considered to be paid by the taxpayer on the day the pass-through entity pays to the treasurer of state the amount due for the tax imposed by section 5726.02 of the Revised Code.

In claiming the credit and determining the taxpayer's proportionate share of the tax due and the tax paid by a pass-through entity, the taxpayer shall follow the concepts set forth in subchapters J and K of the Internal Revenue Code.

The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due under section 5747.02 of the Revised Code after deduction of all other credits in that order, the taxpayer is entitled to a refund of the excess.

Added by 129th General Assembly File No.186, HB 510, §1, eff. 3/27/2013.

## **ORC 5747.66 – Credit for Any Individual Who is the Certificate Owner of a Tax Credit Certificate**

(A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5747.02 of the Revised Code for any individual who, on the last day of the individual's taxable year, is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the taxable year that includes the date the certificate was issued by the director of development. The credit amount equals the amount stated in the certificate. The credit shall be

claimed in the order required under section 5747.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5747.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

Nothing in this section limits or disallows pass-through treatment of the credit.

Added by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

## ORC 5747.70 – Deductions for Contributions to College Savings Programs

(A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year to a variable college savings program account and to a purchaser of tuition units under the Ohio college savings program created by Chapter 3334. of the Revised Code to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to two thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed two thousand dollars, the excess may be carried forward and deducted in future taxable years until the contributions and purchases have been fully deducted.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed for:

(1) Income related to tuition units and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such income is included in federal adjusted gross income.

(2) The excess of the total purchase price of tuition units refunded during the taxable year pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code over the amount of the refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income. Division (B)(2) of this section applies only to units for which no deduction was allowable under division (A) of this section.

(C) In computing Ohio adjusted gross income, there shall be added to federal adjusted gross income the amount of loss related to tuition units and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such loss was deducted in determining federal adjusted gross income.

(D) For taxable years in which distributions or refunds are made under a tuition payment or variable college savings program contract for any reason other than payment of tuition or other higher education expenses, or the beneficiary's death, disability, or receipt of a scholarship as described in section 3334.10 of the Revised Code:

(1) If the distribution or refund is paid to the purchaser or contributor or beneficiary, any portion of the distribution or refund not included in the recipient's federal adjusted gross income shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income, except that the amount added shall not exceed amounts previously deducted under division (A) of this section less any amounts added under division (D)(1) of this section in a prior taxable year.

(2) If amounts paid by a purchaser or contributor on or after January 1, 2000, are distributed or refunded to someone other than the purchaser or contributor or beneficiary, the amount of the payment not included in the recipient's federal adjusted gross income, less any amounts added under division (D) of this section in a prior taxable year, shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income.

Effective Date: 06-08-2000; 09-29-2005

## ORC 5747.71 – Earned Income Tax Credit

There is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a taxpayer who is an “eligible individual” as defined in section 32 of the Internal Revenue Code. The credit shall equal five per cent of the credit allowed on the taxpayer’s federal income tax return pursuant to section 32 of the Internal Revenue Code for taxable years beginning in 2013, and ten per cent of the federal credit allowed for taxable years beginning in or after 2014. If the Ohio adjusted gross income of the taxpayer, or the taxpayer and the taxpayer’s spouse if the taxpayer and the taxpayer’s spouse file a joint return under section 5747.08 of the Revised Code, less applicable exemptions under section 5747.025 of the Revised Code, exceeds twenty thousand dollars, the credit authorized by this section shall not exceed fifty per cent of the amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit

allowed under this section in the order prescribed by section 5747.98 of the Revised Code except for the joint filing credit authorized under division (G) of section 5747.05 of the Revised Code. In all other cases, the credit authorized by this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code after deducting any other nonrefundable credits that precede the credit allowed under this section in the order prescribed by section 5747.98 of the Revised Code.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code.

Amended by 130th General Assembly File No. TBD, HB 483, §101.01, eff. 9/15/2014.

Added by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

## **ORC 5747.76 – Refundable Income Tax Credit for Owner of R.C. 149.311 Certificate**

(A) As used in this section, “certificate owner” has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed under section 5747.02 of the Revised Code for a taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of credit allowed for any taxpayer shall not exceed five million dollars. The credit shall be claimed for the taxable year specified in the certificate and in the order required under section 5747.98 of the Revised Code.

(C) Nothing in this section limits or disallows pass-through treatment of the credit if the certificate owner is a pass-through entity. If the certificate owner is a pass-through entity, the amount of the credit allowed for the pass-through entity shall not exceed five million dollars. If the certificate owner is a pass-through entity, the credit may be allocated among the entity’s equity owners in proportion to their ownership interests or in such proportions or amounts as the equity owners mutually agree.

(D) If the credit allowed for any taxable year exceeds the tax otherwise due under section 5747.02 of the Revised Code, after allowing for any other credits pre-

ceding the credit in the order prescribed by section 5747.98 of the Revised Code, the excess shall be refunded to the taxpayer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due for that year shall not exceed three million dollars or, if the certificate owner is a pass-through entity, shall not exceed the taxpayer’s distributive or proportionate share, as allocated under division (C) of this section, of three million dollars. The taxpayer may carry forward any balance of the credit in excess of the amount claimed for that year for not more than five ensuing taxable years, and shall deduct any amount claimed for any such year from the amount claimed in an ensuing year.

(E) A taxpayer claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the taxable year to which the credit was applied, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 04-04-2007; 2008 HB554 06-12-2008

See 128th General Assembly File No. 9, HB 1, §803.20.

## ORC 5747.78 – Deductions for Amounts Contributed to ABLE Savings Account

In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for amounts contributed during the taxable year to an ABLE savings account opened in accordance with sections 113.50 to 113.56 of the Revised Code to the extent that the amounts contributed have not been deducted in computing the contributor's federal adjusted gross income for the taxable year. The total amount of contributions deducted for any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, shall not exceed the annual contribution limit for each beneficiary for whom contributions are made. If the total annual contributions for a beneficiary exceed the annual contribution limit, the excess may be car-

ried forward and deducted in future taxable years until the contributions have been fully deducted.

As used in this section, "annual contribution limit" means the limit prescribed in section 5747.70 of the Revised Code on the dollar amount of contributions and purchases that a taxpayer, or a taxpayer and the taxpayer's spouse, may deduct during a taxable year under that section with respect to each beneficiary for whom contributions or purchases are made.

Added by 131st General Assembly File No. TBD, HB 483, §101.01, eff. 10/12/2016.

Related Legislative Provision: See 131st General Assembly File No. TBD, HB 483, §803.10.

## **ORC 5747.80 – Issuance of Tax Credits By Ohio Venture Capital Authority**

Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a refundable credit may be claimed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate

issued by the authority and in the order required under section 5747.98 of the Revised Code.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 2/15/2015.

Effective Date: 09-26-2003; 06-30-2005; 06-05-200.

## ORC 5747.81 – Tax Credit for Holders of Small Business Investment Certificate

(A) Any term used in this section that is defined in section 122.86 of the Revised Code has the same meaning as defined in that section.

(B) For the purpose of encouraging new capital investment in small businesses in this state and thereby promoting the economic welfare of all Ohioans, a nonrefundable credit is allowed against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer to whom a small business investment certificate was issued under section 122.86 of the Revised Code if the taxpayer did not sell or otherwise dispose of the qualifying investment before the conclusion of the applicable holding period and if the small business enterprise on the basis of which the certificate was issued is included in the register maintained under division (D) of section 122.86 of the Revised Code.

The credit shall be claimed for the taxpayer's taxable year that includes the last day of the holding period of the qualifying investment. If the certificate was issued to a pass-through entity that made the qualifying investment, a taxpayer that holds a direct or indirect equity interest in the pass-through entity on the last day of the entity's taxable year that includes the last day of the holding period may claim the taxpayer's distributive or proportionate share of the credit for the taxpayer's taxable year that includes the last day of the entity's taxable year.

The credit equals the amount of the taxpayer's qualifying investment as indicated on the certificate multiplied

by ten percent. If a taxpayer claims a credit on the basis of more than one small business investment certificate issued for the same fiscal biennium, including a certificate issued to a pass-through entity in which the taxpayer owns an equity interest, the total amount of credit claimed by the taxpayer on the basis of all such certificates shall not exceed one million dollars. If a taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, the credit shall be computed on the basis of the total qualifying investments made by both spouses or by any pass-through entities in which either spouse owns an equity interest, but the total amount of credit claimed on the basis of all certificates issued to the spouses or to such pass-through entities for a fiscal biennium shall not exceed two million dollars.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code. If the credit exceeds the aggregate amount of tax otherwise due for the taxable year, the excess may be carried forward and applied against the tax due for not more than seven succeeding taxable years, provided that the amount applied to the tax due for any taxable year shall be subtracted from the amount available to carry forward to succeeding years.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 2/15/2015.

Added by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

## ORC 5747.98 – Order for Claiming Credits

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

(1)

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

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

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

(4) The low-income credit under section 5747.056 of the Revised Code;

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

(6) The campaign contribution credit under section 5747.29 of the Revised Code;

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

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

(9) The earned income credit under section 5747.71 of the Revised Code;

(10) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(11) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(12) The enterprise zone credit under section 5709.66 of the Revised Code;

(13) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(14) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(15) The small business investment credit under section 5747.81 of the Revised Code;

(16) The enterprise zone credits under section 5709.65 of the Revised Code;

(17) The research and development credit under section 5747.331 of the Revised Code;

(18) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(19) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(20) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(21) The refundable motion picture production credit under section 5747.66 of the Revised Code;

(22) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

(23) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(24) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;

(25) 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;

(26) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(27) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.

(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.

Amended by 131st General Assembly File No. TBD, SB 208, §1, eff. 11/15/2015.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 9/29/2015.

Amended by 130th General Assembly File No. TBD, SB 250, §1, eff. 3/23/2015.

Amended by 130th General Assembly File No. TBD, HB 492, §1, eff. 9/17/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 186, HB 510, §1, eff. 3/27/2013.

Amended by 129th General Assembly File No. 126, HB 386, §1, eff. 6/11/2012.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 129th General Assembly File No. 3, HB 58, §1, eff. 3/7/2011.

Amended by 128th General Assembly File No. 38, HB 519, §1, eff. 9/10/2010.

Amended by 128th General Assembly File No. 9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 07-09-2003; 05-18-2005; 06-30-2005; 06-05-2006; 04-04-2007; 2007 HB119 09-29-2007; 2008 HB554 06-12-200.

## ORC 5748 – School District Income Tax Definitions

5748.01 School district income tax definitions.

As used in this chapter:

(A) “School district income tax” means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly;

(4) Section 5748.021 of the Revised Code;

(5) Section 5748.081 of the Revised Code;

(6) Section 5748.09 of the Revised Code.

(B) “Individual” means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) “Estate” means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) “Taxable year” means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

## **ORC 5748.01(D) – School District Income Tax Definitions**

(D) “Taxable year” means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

## **ORC 5748.01(E)(1)(a) or (b) – School District Income Tax Definitions**

(E) “Taxable income” means:

(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code, plus any amount deducted under division (A)(31) of section 5747.01 of the Revised Code for the taxable year;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

## **ORC 5748.01(F)(1) – School District Income Tax Definitions**

(F) “Resident” of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and

who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

## **ORC 5748.01(G)(1) – School District Income Tax Definitions**

(G) “School district income” means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that

the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.

## ORC 5748.02(A) – School District Income Tax Proposal and Election

(A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than one hundred days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

## **ORC 5748.06 – Credit Against Tax for Senior Citizens**

For a taxpayer sixty-five years of age or older during the taxable year, a credit shall be permitted against the tax otherwise due under this chapter for such year equal to fifty dollars for each return required to be filed under section 5747.08 of the Revised Code for taxes

levied under this chapter. The credit allowed under this section shall not exceed the tax otherwise due.

Effective Date: 06-13-1989

## **Servicemembers Civil Relief Act Section 511(b) – Residence for Tax Purposes**

(b) MILITARY SERVICE COMPENSATION – Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United

States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

## **Servicemembers Civil Relief Act section 511(d) – Residence for Tax Purposes**

(d) INCREASE OF TAX LIABILITY – A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

## **Tax Commissioner Rule 5703-7-09 – Taxpayers Reporting of School District of Residence**

Pursuant to Section 5747.04 of the Revised Code, as amended by Am. Sub. S.B. No. 170 of the 111th General Assembly and the decision in *State, ex rel. Akron Edn. Assn. v. Essex*, 47 Ohio St. 2d 47 (July 14, 1976), each taxpayer required by Chapter 5747, Revised Code, to file an annual Ohio income tax return shall indicate thereon the public school district in which the taxpayer resides.

The appropriate public school district shall be indicated on the return by the taxpayer by the use of a number for such public school district as designated by the Tax Commissioner and reflected in the instructions to the return.

Taxpayers who file a joint return but reside in different public school districts shall report the public school district of the spouse earning the majority of the income.

Resident taxpayers who have moved from one location in Ohio to another location in Ohio during the year shall indicate the public school district in which they resided when the majority of income was earned.

Partial year taxpayers who have moved into or out of Ohio during the year shall indicate the Ohio public school district in which they resided while in Ohio.

Taxpayers who were not residents of Ohio during the year shall indicate such nonresidence in accordance with the instructions to the return.

Effective: 9-15-76 as TX-47-09

Promulgated under: 5703.14

## **Tax Commissioner Rule 5703-7-16 – Determination of Resident Status**

(A) The following factors shall not be considered in making a determination of an individual's domicile under division (c) or (d) of section 5747.24 of the Revised Code:

(1) The location of financial institutions in which the individual or the individual's spouse have any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts.

(2) The location of issuers of credit cards to the individual or the individual's spouse or any other persons making installment loans to the individual or the individual's spouse.

(3) The location of institutional lenders which have made loans to or loans which are guaranteed by the individual or the individual's spouse.

(4) The location of investment facilities, brokerage firms, realtors, financial advisors or consultants used by the individual or the individual's spouse.

(5) The location of either the insurance company that issued or the insurance agent that sold any policy of insurance to the individual or the individual's spouse including, but not limited to, life, health, disability, automobile, or homeowner's insurance.

(6) The location of law firms, accounting firms, and similar professionals utilized by the individual or the individual's spouse for legal, tax, accounting, financial, or retirement services.

(7) The location of physicians, dentists, osteopaths, optometrists, or other health care providers, or veterinarians utilized by the individual or the individual's spouse.

(8) The location of organizations described in section 501(c) of the Internal Revenue Code, except organizations described in paragraphs (2), (7), and (10) of that section, to which the individual or the individual's spouse make contributions or other payments or in which they participate as a congregant, member, board member, committee member, adviser, or consultant provided that participation does not exceed attendance at more than twelve meetings or functions of any one such organization during a calendar year.

(9) The location of funeral facilities or the burial plot of the individual or the individual's spouse.

(10) The location of business ventures or business entities in which the individual or the individual's spouse

hold board membership unless the individual or the individual's spouse exercise significant control, either individually or jointly, over the affairs of the entity. An individual or individual's spouse exercises significant control, either jointly or individually, over the affairs of a corporation if he or she owns more than five percent of the stock in or five percent of the value of such corporation including constructive ownership as defined in section 1563(e) of the Internal Revenue Code. An individual or individual's spouse exercises significant control, either individually or jointly, over the affairs of a partnership or limited liability company or other business entity or business venture if he or she owns more than a five percent interest in the capital or profits of the partnership, limited liability company, or other business entity or business venture applying constructive ownership principles parallel to those in section 1563(e) of the Internal Revenue Code.

(11) The location, place of business, or place of organization or incorporation of a corporation, partnership, limited liability company, or other business entity or business venture in which the individual or the individual's spouse is a shareholder or limited partner unless the individual or the individual's spouse exercises significant control, either individually or jointly, over the affairs of the corporation, partnership, limited liability company, or other business entity or business venture as defined in paragraph (A)(10) of this rule.

(12) The recitation of residency or domicile in a will, trust, or other estate planning document.

(13) The location of the individual's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than his or her spouse, if not legally separated from his or her spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code.

(14) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, unless those dependents pay tuition at that educational institution based on the residency of the individual or the individual's spouse in the state where the educational institution is located.

(15) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the individual or the individual's spouse.

(16) The location of a business at which the individual or the individual's spouse makes purchases of tangible personal property.

(17) The location where the individual married.

(18) The location or identity of recipients of political contributions made by the individual or the individual's spouse.

(B) The following factors may be considered in making a determination of an individual's domicile under division (C) or (D) of section 5747.24 of the Revised Code:

(1) The number of contact periods (determined under paragraph (C) of this rule) which the individual has in Ohio.

(2) The individual's activities in tax years other than the tax year or years at issue.

(3) Any other fact the tax commissioner deems relevant, excepting those set forth in paragraph (A) of this rule.

(C)(1) If the tax commissioner challenges the number of contact periods an individual claims to have in this state during a taxable year, the individual bears the burden of proof to verify such number, by a preponderance of the evidence. An individual challenged by the tax commissioner is presumed to have a contact period in this state for any period for which he or she does not prove by a preponderance of the evidence that he or she had no such contact period.

(2) An individual can support his or her claim of the number of contact periods in this state by oral or written statements or by writings or recordings. The absence of writings or recordings shall not prevent the individual from supporting his or her claims of the number of contact periods and meeting the individual's burden of proof, but such evidence shall be subject to review for veracity and credibility for determining whether the individual has met the burden of proof.

(3) The tax commissioner can request that any statement offered by the individual be made under penalty of perjury, and any such statement which the individual cannot or will not make under penalty of perjury shall be given no weight and shall not be considered by the tax commissioner as evidence which would oth-

erwise allow the individual to meet or help meet the individual's burden of proof.

(D) If the tax commissioner challenges the number of contact periods an individual claims to have in this state during the taxable year, the type of writings or recordings that an individual can submit to support a claim that he or she did not have a contact period or contact periods in this state includes the following:

(1) Credit card or cash receipts;

(2) Personal diaries, calendars or expense reports for business travel;

(3) Written statements of the individual or others having knowledge of the facts;

(4) Mail forwarding;

(5) Transportation tickets or receipts, travel vouchers, logs of airplanes, yachts, or other means of transportation;

(6) Personal checks;

(7) Payroll records;

(8) Evidence of use of club facilities;

(9) Utility shut-off or disconnect statements or telephone bills;

(10) Photographs and videotape;

(11) Health care practitioner statements;

(12) Attendance records of schools;

(13) Minutes of meetings of any business or other organization;

(14) Voting records and other public records;

(15) Armed services records; and

(16) Any other writings or recordings tending to show the physical whereabouts of the individual.

Effective: 12-31-93

Promulgated under: 5703.14

Authorized by: 5703.05, section 3 of S.B. 123 (120th G.A.)

Amplifies: 5747.01, 5747.24, 5747.25, 5748.01