

H.B. 133  
As Passed by the House

**Topic:** Estimated income tax underpayment penalty 1

\_\_\_\_\_ moved to amend as follows:

In line 2 of the title, after "5747.01," insert "5747.09,  
5747.43," 2 3

In line 10 of the title, after "disaster" insert "and to  
modify the interest penalty for late payments of estimated income  
taxes" 4 5 6

In line 12, after "5747.01," insert "5747.09, 5747.43," 7

After line 3149, insert: 8

**"Sec. 5747.09.** (A) As used in this section: 9

(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. 10 11 12 13

(2) "Tax liability" means the total taxes due for the taxable  
year, after allowing any credit to which the taxpayer is entitled,  
but prior to applying any estimated tax payment, withholding  
payment, or refund from another tax year. 14 15 16 17

(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 18 19 20

in payment of estimated taxes.

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(4) "Required installment" means a payment equal to  
twenty-five per cent of the lesser of the following:

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(a) Ninety per cent of the tax liability for the taxable  
year;

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(b) One hundred per cent of the tax liability shown on the  
return of a taxpayer for the preceding taxable year.

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Division (A)(4)(b) of this section applies only if the  
taxpayer filed a return under section 5747.08 of the Revised Code  
for the preceding taxable year and if the preceding taxable year  
was a twelve-month taxable year.

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(B) Every taxpayer shall make declaration of estimated taxes for the current taxable year, in the form that the tax commissioner shall prescribe, if the amount payable as estimated taxes, less the amount to be withheld from the taxpayer's compensation, is more than five hundred dollars. For purposes of this section, taxes withheld from compensation shall be considered as paid in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld. Taxpayers filing joint returns pursuant to section 5747.08 of the Revised Code shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the commissioner. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner. The declaration of estimated taxes for an individual under a disability shall be made and filed by the person who is required to file the income tax return.

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The declaration of estimated taxes shall be filed on or 50  
before the fifteenth day of April of each year or on or before the 51  
fifteenth day of the fourth month after the taxpayer becomes 52  
subject to tax for the first time. 53

Taxpayers reporting on a fiscal year basis shall file a 54  
declaration on or before the fifteenth day of the fourth month 55  
after the beginning of each fiscal year or period. 56

The declaration shall be filed upon a form prescribed by the 57  
commissioner and furnished by or obtainable from the commissioner. 58

The original declaration or any subsequent amendment may be 59  
increased or decreased on or before any subsequent quarterly 60  
payment day as provided in this section. 61

(C) The required portion of the tax liability for the taxable 62  
year that shall be paid through estimated taxes made payable to 63  
the treasurer of state, including the application of tax refunds 64  
to estimated taxes, and withholding on or before the applicable 65  
payment date shall be as follows: 66

(1) On or before the fifteenth day of the fourth month after 67  
the beginning of the taxable year, twenty-two and one-half per 68  
cent of the tax liability for the taxable year; 69

(2) On or before the fifteenth day of the sixth month after 70  
the beginning of the taxable year, forty-five per cent of the tax 71  
liability for the taxable year; 72

(3) On or before the fifteenth day of the ninth month after 73  
the beginning of the taxable year, sixty-seven and one-half per 74  
cent of the tax liability for the taxable year; 75

(4) On or before the fifteenth day of the first month of the 76  
following taxable year, ninety per cent of the tax liability for 77  
the taxable year. 78

When an amended return has been filed, the unpaid balance 79  
 shown due on the amended return shall be paid in equal 80  
 installments on or before the remaining payment dates. 81

On or before the fifteenth day of the fourth month of the 82  
 year following that for which the declaration or amended 83  
 declaration was filed, an annual return shall be filed and any 84  
 balance which may be due shall be paid with the return in 85  
 accordance with section 5747.08 of the Revised Code. 86

(D) In the case of any underpayment of estimated taxes, an 87  
 interest penalty shall be added to the taxes for the tax year at 88  
 the rate per annum prescribed by section 5703.47 of the Revised 89  
 Code upon the amount of underpayment for the period of 90  
 underpayment, unless the underpayment is due to reasonable cause 91  
 as described in division (E) of this section. The amount of the 92  
 underpayment shall be determined as follows: 93

(1) For the first payment of estimated taxes each year, 94  
~~twenty two and one half per cent of the tax liability, the~~ 95  
required installment less the amount of taxes paid by the date 96  
 prescribed for that payment; 97

(2) For the second payment of estimated taxes each year, 98  
~~forty five per cent of the tax liability, the required installment~~ 99  
 less the amount of taxes paid by the date prescribed for that 100  
 payment; 101

(3) For the third payment of estimated taxes each year, 102  
~~sixty seven and one half per cent of the tax liability, the~~ 103  
required installment less the amount of taxes paid by the date 104  
 prescribed for that payment; 105

(4) For the fourth payment of estimated taxes each year, 106  
~~ninety per cent of the tax liability, the required installment~~ 107

less the amount of taxes paid by the date prescribed for that 108  
payment. 109

The period of the underpayment shall run from the day the 110  
estimated payment was required to be made to the date on which the 111  
payment is made. For purposes of this section, a payment of 112  
estimated taxes on or before any payment date shall be considered 113  
a payment of any previous underpayment only to the extent the 114  
payment of estimated taxes exceeds the amount of the payment 115  
presently required to be paid to avoid any penalty. 116

The interest penalty imposed under division (D) of this 117  
section shall be in lieu of any other interest charge or penalty 118  
imposed for failure to file an estimated return and make estimated 119  
payments as required by this section. 120

(E) An underpayment of estimated taxes determined under 121  
division (D) of this section shall be due to reasonable cause and 122  
the interest penalty imposed by this section shall not be added to 123  
the taxes for the tax year if either of the following apply: 124

(1) The amount of tax that was paid equals at least ninety 125  
per cent of the tax liability for the current taxable year, 126  
determined by annualizing the income received during the year up 127  
to the end of the month immediately preceding the month in which 128  
the payment is due; 129

(2) The amount of tax that was paid equals at least one 130  
hundred per cent of the tax liability shown on the return of the 131  
taxpayer for the preceding taxable year, provided that the 132  
immediately preceding taxable year reflected a period of twelve 133  
months and the taxpayer filed a return under section 5747.08 of 134  
the Revised Code for that year. 135

The tax commissioner may waive the requirement for filing a 136  
declaration of estimated taxes for any class of taxpayers after 137

finding that the waiver is reasonable and proper in view of	138
administrative costs and other factors.	139
<b>Sec. 5747.43.</b> (A) As used in this section:	140
(1) "Estimated taxes" means the amount that a qualifying	141
entity estimates to be the sum of its liability under sections	142
5733.41 and 5747.41 of the Revised Code for its current qualifying	143
taxable year.	144
(2) "Tax liability" means the total of the taxes and	145
withholding taxes due under sections 5733.41 and 5747.41 of the	146
Revised Code for the qualifying taxable year prior to applying any	147
estimated tax payment or refund from another year.	148
(3) "Taxes paid" includes payments of estimated taxes made	149
under division (C) of this section and tax refunds applied by the	150
qualifying entity in payment of estimated taxes.	151
<u>(4) "Required installment" means a payment equal to</u>	152
<u>twenty-five per cent of the lesser of the following:</u>	153
<u>(a) Ninety per cent of the tax liability for the qualifying</u>	154
<u>taxable year;</u>	155
<u>(b) One hundred per cent of the tax liability shown on the</u>	156
<u>return of a qualifying entity for the preceding qualifying taxable</u>	157
<u>year.</u>	158
<u>Division (A)(4)(b) of this section applies only if the</u>	159
<u>qualifying entity filed a return under section 5747.42 of the</u>	160
<u>Revised Code for the preceding qualifying taxable year and if the</u>	161
<u>preceding qualifying taxable year was a twelve-month taxable year.</u>	162
(B) In addition to the return required to be filed pursuant	163
to section 5747.42 of the Revised Code, each qualifying entity	164
subject to the tax imposed under section 5733.41 and to the	165

withholding tax imposed by section 5747.41 of the Revised Code 166  
 shall file an estimated tax return and pay a portion of the 167  
 qualifying entity's tax liability for its qualifying taxable year. 168  
 The portion of those taxes required to be paid, and the last day 169  
 prescribed for payment thereof, shall be as prescribed by 170  
 divisions (B)(1), (2), (3), and (4) of this section: 171

(1) On or before the fifteenth day of the month following the 172  
 last day of the first quarter of the qualifying entity's 173  
 qualifying taxable year, twenty-two and one-half per cent of the 174  
 qualifying entity's estimated tax liability for that taxable year; 175

(2) On or before the fifteenth day of the month following the 176  
 last day of the second quarter of the qualifying entity's 177  
 qualifying taxable year, forty-five per cent of the qualifying 178  
 entity's estimated tax liability for that taxable year; 179

(3) On or before the fifteenth day of the month following the 180  
 last day of the third quarter of the qualifying entity's 181  
 qualifying taxable year, sixty-seven and one-half per cent of the 182  
 qualifying entity's estimated tax liability for that taxable year; 183

(4) On or before the fifteenth day of the month following the 184  
 last day of the fourth quarter of the qualifying entity's 185  
 qualifying taxable year, ninety per cent of the qualifying 186  
 entity's estimated tax liability for that taxable year. 187

Payments of estimated taxes shall be made payable to the 188  
 treasurer of state. 189

(C) If a payment of estimated taxes is not paid in the full 190  
 amount required under division (B) of this section, a penalty 191  
 shall be added to the taxes charged for the qualifying taxable 192  
 year unless the underpayment is due to reasonable cause as 193  
 described in division (D) of this section. The penalty shall 194

accrue at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment from the day the estimated payment was required to be made to the day the payment is made.

The amount of the underpayment upon which the penalty shall accrue 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~~ the required installment 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~~ the required installment 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~~ the required installment 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~~ the required installment less the amount of taxes paid by the date prescribed for that payment.

For the purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of a 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 penalty imposed under division (C) of this section is in lieu of any other interest charge or penalty imposed for failure to file a declaration of estimated tax report and make estimated

payments as required by this section.	224
(D) An underpayment of estimated taxes determined under	225
division (C) of this section is due to reasonable cause if any of	226
the following apply:	227
(1) The amount of tax that was paid equals at least ninety	228
per cent of the tax liability for the current qualifying taxable	229
year, determined by annualizing the income received during that	230
year up to the end of the month immediately preceding the month in	231
which the payment is due;	232
(2) The amount of tax liability that was paid equals at least	233
ninety per cent of the tax liability for the current qualifying	234
taxable year;	235
(3) The amount of tax liability that was paid equals at least	236
one hundred per cent of the tax liability shown on the return of	237
the qualifying entity for the preceding qualifying taxable year,	238
provided that the immediately preceding qualifying taxable year	239
reflected a period of twelve months and the qualifying entity	240
filed a return under section 5747.42 of the Revised Code for that	241
year.	242
(E)(1) Divisions (B) and (C) of this section do not apply for	243
a taxable year if either of the following applies to the	244
qualifying entity:	245
(a) For the immediately preceding taxable year, the entity	246
computes in good faith and in a reasonable manner that the sum of	247
its adjusted qualifying amounts is ten thousand dollars or less.	248
(b) For the taxable year the entity computes in good faith	249
and in a reasonable manner that the sum of its adjusted qualifying	250
amounts is ten thousand dollars or less.	251
(2) Notwithstanding any other provision of Title LVII of the	252

Revised Code to the contrary, the entity shall establish by a 253  
 preponderance of the evidence that its computation of the adjusted 254  
 qualifying amounts for the immediately preceding taxable year and 255  
 the taxable year was, in fact, made in good faith and in a 256  
 reasonable manner. 257

(F) The tax commissioner may waive the requirement for filing 258  
 a declaration of estimated taxes for any class of qualifying 259  
 entities if the commissioner finds the waiver is reasonable and 260  
 proper in view of administrative costs and other factors." 261

In line 3930, after "5747.01," insert "5747.09, 5747.43," 262

After line 3931, insert: 263

"**Section 3.** The amendment by this act of sections 5747.09 and 264  
 5747.43 of the Revised Code applies to taxable years and to 265  
 qualifying taxable years, respectively, beginning on or after 266  
 January 1, 2017." 267

In line 3932, delete "3" and insert "4" 268

The motion was \_\_\_\_\_ agreed to.