Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 399

135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Brown and Lampton

Andrew Little, Attorney

SUMMARY

- Modifies the income tax deduction for living organ donors who incur donation-related expenses from the amount of the expenses with a $10,000 cap to a flat $10,000 deduction regardless of expenses.
- Authorizes a nonrefundable income tax credit for employers that offer paid leave to employees who donate organs.

DETAILED ANALYSIS

The bill amends an existing tax deduction for organ donors and creates an income tax credit for employers offering paid organ donation leave benefits.

Income tax deduction for living donors

Current law allows living organ donors to deduct the amount of certain organ donation expenses the donor incurred, up to $10,000, when calculating their Ohio adjusted gross income. Qualifying expenses are those incurred for travel, lodging, and forgone wages in connection with the donation of all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. The bill changes the deduction to a flat $10,000 and adds a requirement that the donation be made in accordance with the National Organ Transplant Act, a federal law that sets the standards and procedures for living organ donations.[1]

An income tax deduction reduces a taxpayer's taxable income, that is the amount of income on which tax is owed.

[1] R.C. 5747.01(A)(22); 42 United States Code (U.S.C.) 273, *et seq*.

Income tax credit for paid organ donor leave

The bill creates a new nonrefundable income tax credit for taxpayers that are, or who own interests in, qualifying employers that pay donation leave benefits to employee organ donors. Tax credits allow taxpayers to reduce their tax bills on a dollar-for-dollar basis, and they may be refundable or nonrefundable. A nonrefundable credit can reduce a tax bill to zero, but no further, though unused amounts may sometimes be carried forward and used in later years.

Under the bill, a qualified employer is a taxpayer or pass-through entity registered and authorized to use the E-Verify system, which verifies an employee's eligibility to legally work in the United States.[2] Donation leave benefits that qualify for the credit are compensation paid to an employee donor while the employee is on leave for a medically necessary period following a living organ donation that would qualify the employee for the income tax deduction described above. The compensation must be equal to the compensation the employee would have received if working during that period.

The credit amount available per employee and per donation equals the amount of donation leave benefits paid or $300 per day of leave, whichever is less, with a maximum of 30 days of leave benefits allowed for credit purposes. That works out to $9,000 per employee, per donation, maximum. The amount of an employer's credit-eligible donation leave benefits may not exceed $54,000 per taxable year. If a taxpayer qualifies for the credit but cannot claim it in its entirety because it is greater than the taxpayer's liability, the taxpayer may carry the unclaimed portion forward for three taxable years.

Beginning in 2025, the bill requires the Tax Commissioner to issue an annual report including information about the credit in the preceding year. It must be delivered to the chairs of the primary committees dealing with taxation in the Ohio House of Representatives and Senate, and include the following:

- The number of taxpayers that claimed the credit;
- The number of employee donors and days on which donation leave benefits were paid;
- The total value of all credits claimed.[3]

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[2] 8 U.S.C. 1324a.

[3] R.C. 5747.74.

HISTORY

Action	Date
Introduced	02-05-24

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