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H.B. 399
135th General Assembly

Bill Analysis

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Version: As Reported by House Ways & Means

Primary Sponsors: Reps. Brown and Lampton

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SUMMARY

- Authorizes a nonrefundable income tax credit for employers that offer paid leave to employees who donate organs.

DETAILED ANALYSIS

Income tax credit for paid organ donor leave

The bill creates a nonrefundable income tax credit for a taxpayer that is, or who owns an interest in, a qualifying employer that pays donation leave benefits to employee organ donors. In general, a tax credit allows a taxpayer to reduce its tax liability, and a credit may be refundable or nonrefundable. A nonrefundable credit can reduce tax liability 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.¹ 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 an income tax deduction available under continuing law for certain expenses connected with that donation. Eligible donations include all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow, provided the donation is in accordance with the National Organ Transplant Act, a federal law that sets the standards and procedures for living organ donations.² The compensation must be equal to the compensation the employee would have received if working during that period and must be

¹ 8 United States Code (U.S.C.) 1324a.

² R.C. 5747.01(A)(22), not in the bill; 42 U.S.C. 273, *et seq.*

allowed pursuant to an organ donation leave policy of the employer that does not allow such leave to be deducted from the employee's other paid leave time, such as general sick leave.

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.

The Tax Commissioner may require an employer claiming the credit to submit documentation verifying credit eligibility, including the employer's living donation leave policy, pay stubs for the employee donor, or a signed attestation from the employee donor providing the date of the donation and the period of time for which leave was prescribed as medically necessary. The bill authorizes the Commissioner to adopt any rules necessary to administer the credit.

Beginning in 2025, the bill requires the 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 number of taxpayers that claimed the credit and the total value of all credits claimed.³

HISTORY

Action	Date
Introduced	02-05-24
Reported, H. Ways & Means	06-12-24

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³ R.C. 5747.74 and 5747.98.