



Ohio Revised Code

Section 5711.29 Unreasonable accumulation of profits by corporation - accumulation of trust income - assessment by commissioner.

Effective: January 15, 1993

Legislation: Senate Bill 358 - 119th General Assembly

If any corporation uses the rights and powers granted by its charter to prevent the assessment of the shares of its resident shareholders on the basis of income yield, as provided in sections 5711.01 to 5711.36 of the Revised Code, by permitting its gains and profits to accumulate instead of being distributed, or by paying exorbitant salaries to its officers and employees, the tax commissioner, upon finding such to be the fact, shall assess the amount representing the aggregate assessments of the shares of such resident shareholders in the names of such resident shareholders and certify such assessments, together with the penalty provided in such sections, to the proper county auditor who shall place the same on the classified tax list and duplicate in the names of such shareholders, as investments assessed on the basis of income yield for the year for which such assessments are made; and taxes shall be collected thereon the same as on other like assessments. The commissioner shall give notice of such assessment to the corporation by personal service or certified mail, and such assessment shall be subject to a petition for reassessment and an appeal as provided in sections 5711.31 and 5717.02 of the Revised Code.

If any such corporation is a holding or investment company, or if the gains or profits are permitted to accumulate beyond the reasonable needs of the business, such fact shall be prima-facie evidence of a purpose to prevent the assessment of the shares of its resident stockholders on such basis.

If any trust, under the terms of which the trustee is required or authorized to withhold and accumulate all or any part of the income, is created or used for the purpose of preventing the assessment of the equitable interests of the resident beneficiaries on the basis of income yield, as provided in sections 5711.01 to 5711.36 of the Revised Code, the commissioner, upon finding such to be the fact, shall assess the amount representing the aggregate assessment of such equitable shares in the manner provided in this section. If the creator of such trust reserved a power of revocation, or if the trustee has discretion to pay and distribute the income of the trust property to or for the benefit of such resident beneficiary, such fact shall be prima-facie evidence of a purpose to prevent the assessment of the equitable shares of the resident beneficiaries upon such basis.



The assessment imposed by this action shall not be made against any resident shareholder of such corporation or beneficiary of such trust who in filing his return lists as the income yield of his shares or beneficial interest the entire distributive share or beneficial interest, whether distributed or not, of the net income of such corporation or trust for such year, in which event any subsequent distribution made by such corporation or trust out of the earnings or profits of such year shall, if distributed to any shareholder or beneficiary who has so included in the income yield of his shares the distributive share thereof, be deducted from the income yield of such shares for the year in which the same is made.