



## Ohio Revised Code

### Section 5747.011 Gain or loss included in trust's Ohio taxable income.

Effective: March 14, 2003

Legislation: House Bill 675 - 124th General Assembly

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(A) As used in this section:

(1) "Qualifying closely-held C corporation" means a person classified for federal income tax purposes as an association taxed as a corporation and that has more than fifty per cent of the value of its outstanding stock or equity owned, directly or indirectly, by or for not more than five qualifying persons. For the purposes of this division, the ownership of stock shall be determined under the rules set forth in section 544 of the Internal Revenue Code.

(2) "Qualifying person" means an individual; an organization described in section 401(a), 501(c)(17), or 509(a) of the Internal Revenue Code; or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) of the Internal Revenue Code or a corresponding provision of a prior federal income tax law.

(3) "Qualifying limited liability company" means a limited liability company that is not classified for federal income tax purposes as an association taxed as a corporation.

(4) "Ownership interest" means the equity or ownership interest in, or debt obligation of, a "qualifying investee" as defined in section 5747.01 of the Revised Code.

(5) "Qualifying individual beneficiary" has the same meaning as qualifying beneficiary as used in division (I)(3)(c) of section 5747.01 of the Revised Code, but is limited to individuals.

(6) "Family" of an individual means only the individual's spouse; the individual's ancestors, limited to the individual's parents, grandparents, and great grandparents; the siblings of such ancestors, whether by the whole or half blood or by legal adoption; the lineal descendants of such ancestors and siblings; persons legally adopted by such ancestors or by such siblings; and the spouses of such ancestors, siblings, legally adopted persons, and lineal descendants.



(B) The requirements of this division apply for purposes of division (BB)(2)(b) of section 5747.01 of the Revised Code and for the purposes of division (D) of section 5747.012 of the Revised Code. Gain or loss included in a trust's Ohio taxable income is not a qualifying trust amount unless the trust's ownership interest in the qualifying investee is at least five per cent of the total outstanding ownership interests in such qualifying investee at any time during the ten-year period ending on the last day of the trust's taxable year in which the sale, exchange, or other disposition occurs. Nothing in this section negates the requirements in division (BB)(2) of section 5747.01 of the Revised Code.

For the purpose of ascertaining whether the trust's ownership interest in a qualifying investee is at least five per cent of the total outstanding ownership interests in such qualifying investee, the following apply:

(1) On each day, an ownership interest owned, directly or indirectly, by or for a qualifying closely-held C corporation, an S corporation, a partnership other than a publicly traded partnership, a qualifying limited liability company, an estate, or a trust that is irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code is considered as being owned proportionately on the same day by the equity investors of such qualifying closely-held C corporation, S corporation, partnership, or qualifying limited liability company, or by the beneficiaries of such estate or trust, as the case may be. For the purposes of division (B)(1) of this section, a beneficiary's proportionate share of an ownership interest held by a trust shall be ascertained in accordance with section 544(a)(1) of the Internal Revenue Code.

(2) On each day, a trust, hereinafter referred to as the first trust, is considered as owning any ownership interest owned, directly or indirectly, by or for another trust, hereinafter referred to as the second trust, if on the same day the second trust has at least one individual trustee who is either (a) a trustee of the first trust, or (b) a member of a family that includes at least one of the trustees of the first trust.

(3) On each day, a trust, hereinafter referred to as the first trust, is considered as owning any ownership interest owned, directly or indirectly, by or for another trust, hereinafter referred to as the second trust, if on the same day the second trust has at least one qualifying individual beneficiary who is either (a) a qualifying individual beneficiary of the first trust or (b) a member of a family which includes a qualifying individual beneficiary of the first trust.



(4) An ownership interest constructively owned by a person by reason of the application of division (B)(1) of this section shall, for the purpose of applying divisions (B)(1) to (3) of this section, be treated as actually owned by that person.

(5) An ownership interest constructively owned by a trust by reason of the application of division (B)(2) or (3) of this section shall not be treated as actually owned by that trust for purposes of applying divisions (B)(1) to (3) of this section.

(6) If an ownership interest may be considered as owned by a trust under division (B)(1) or (2) of this section, the ownership interest shall be considered owned by that trust under division (B)(2) of this section.

(7) If an ownership interest may be considered as owned by a trust under division (B)(1) or (3) of this section, the ownership interest shall be considered owned by that trust under division (B)(3) of this section.