



## Ohio Revised Code

### Section 5747.013 Calculating a trust's modified Ohio taxable income.

Effective: December 11, 2003

Legislation: House Bill 127 - 125th General Assembly

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(A) As used in this section:

(1) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(2) "Qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of material or products for quality control, historical research, or literary research. "Product," as used in this paragraph, does not include services or intangible property.

(B) The fraction to be used in calculating a trust's modified Ohio taxable income under division (BB)(4)(a) of section 5747.01 of the Revised Code shall be determined as follows: The numerator of the fraction is the sum of the following products: the property factor multiplied by twenty, the payroll factor multiplied by twenty, and the sales factor multiplied by sixty. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows:

(1) The property factor is a fraction the numerator of which is the average value of the trust's real and tangible personal property owned or rented and used in the trade or business in this state during the taxable year, and the denominator of which is the average value of all the trust's real and tangible personal property owned or rented and used in the trade or business everywhere during such year. Real and tangible personal property that is owned but leased to a lessee to be used in the lessee's trade or business shall not be included in the property factor of the owner. There shall be excluded



from the numerator and denominator of the fraction the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to that section or former section 6111.31 of the Revised Code; and property used exclusively during the taxable year for qualified research.

(a) Property owned by the trust is valued at its original cost. Property rented by the trust is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the trust less any annual rental rate received by the trust from subrentals.

(b) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the trust's property.

(2) The payroll factor is a fraction the numerator of which is the total amount paid in this state during the taxable year by the trust for compensation, and the denominator of which is the total compensation paid everywhere by the trust during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(a) Compensation is paid in this state if: (i) the recipient's service is performed entirely within this state; (ii) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state; or (iii) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled, is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(b) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.



(3) The sales factor is a fraction the numerator of which is the total sales in this state by the trust during the taxable year, and the denominator of which is the total sales by the trust everywhere during such year. In determining the numerator and denominator of the fraction, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a trust owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the trust from such insurance companies, utilities, and financial institutions shall be eliminated.

For the purpose of this section and section 5747.08 of the Revised Code, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales, other than sales of tangible personal property, are in this state if either:

(a) The income-producing activity is performed solely in this state; or

(b) The income-producing activity is performed both within and without this state and a greater proportion of the seller's income-producing activity is performed within this state than in any other state, based on costs of performance.