



## Ohio Revised Code

### Section 5747.212 Apportioning gain recognized by nonresident equity investor selling an investment in a closely-held business.

Effective: June 30, 2005

Legislation: House Bill 66 - 126th General Assembly

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(A) This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code, computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.

(B) A taxpayer, directly or indirectly, owning at any time during the three-year period ending on the last day of the taxpayer's taxable year at least twenty per cent of the equity voting rights of a section 5747.212 entity shall apportion any income, including gain or loss, realized from each sale, exchange, or other disposition of a debt or equity interest in that entity as prescribed in this section. For such purposes, in lieu of using the method prescribed by sections 5747.20 and 5747.21 of the Revised Code, the investor shall apportion the income using the average of the section 5747.212 entity's apportionment fractions otherwise applicable under section 5733.05, 5733.056, or 5747.21 of the Revised Code for the current and two preceding taxable years. If the section 5747.212 entity was not in business for one or more of those years, each year that the entity was not in business shall be excluded in determining the average.

(C) For the purposes of this section:

(1) A "section 5747.212 entity" is any qualifying person if, on at least one day of the three-year period ending on the last day of the taxpayer's taxable year, any of the following apply:

(a) The qualifying person is a pass-through entity;

(b) Five or fewer persons directly or indirectly own all the equity interests, with voting rights, of the qualifying person;

(c) One person directly or indirectly owns at least fifty per cent of the qualifying person's equity



interests with voting rights.

(2) A "qualifying person" is any person other than an individual, estate, or trust.

(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.