



Ohio Revised Code

Section 5733.053 Transferee corporation subject to transferor's tax liability.

Effective: September 5, 2001

Legislation: House Bill 94 - 124th General Assembly

(A) As used in this section:

(1) "Transfer" means a transaction or series of related transactions in which a corporation directly or indirectly transfers or distributes substantially all of its assets or equity to another corporation, if the transfer or distribution qualifies for nonrecognition of gain or loss under the Internal Revenue Code.

(2) "Transferor" means a corporation that has made a transfer.

(3) "Transferee" means a corporation that received substantially all of the assets or equity of a transferor in a transfer.

(B) Except as provided in division (F) of this section, for purposes of valuing its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, a transferee shall add to its net income allocated or apportioned to this state its transferor's net income allocated or apportioned to this state. The transferee shall add such income in computing its tax for the same tax year or years that such income would have been reported by the transferor if the transfer had not been made. The transferee shall add such income only to the extent the income is not required to be reported by the transferor for the purposes of the tax imposed by divisions (A) and (B) of section 5733.06 of the Revised Code.

(C) The following shall be determined in the same manner as if the transfer had not been made:

(1) The transferor's net income allocated or apportioned to this state for the tax year under divisions (B)(1) and (2) of section 5733.05 of the Revised Code;

(2) The transferor's requirements for the combination of net income under section 5733.052 of the Revised Code;



(3) Any other determination regarding the transferor that is necessary to avoid an absurd or unreasonable result in the application of this chapter.

(D) A transferee shall be allowed the following credits and shall make the following adjustments in the same manner that they would have been available to the transferor:

(1) The credits enumerated in section 5733.98 of the Revised Code;

(2) The deduction under division (I)(1) of section 5733.04 of the Revised Code for net operating losses incurred by its transferor, subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code concerning net operating loss carryovers;

(3) Any other deduction from or addition to net income under this chapter involving the transferor, the disallowance of which would be absurd or unreasonable. Such adjustments to net income and allowance of credits shall be subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code and regulations prescribed thereunder.

(E) If a transferee subject to this section subsequently becomes a transferor, any net income that the transferee would have been required to add under division (B) of this section shall be included in its income as a transferor and any credits or adjustments to which the transferee would have been entitled under division (D) of this section shall be available to it as a transferor.

(F) The amendments made to this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the transferee makes an election prior to December 31, 2001, to apply those amendments.