



## Ohio Revised Code

### Section 5733.058 Adjusting for equity investment in an exempted investment.

Effective: September 16, 1998

Legislation: House Bill 770 - 122nd General Assembly

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(A) As used in this section, an "exempted investment" is a direct or indirect investment in the equity of, or the direct or indirect ownership of, a person satisfying divisions (A)(1) and (2) of this section for the person's entire fiscal or calendar year ending within or with the corporation's taxable year ending immediately prior to the tax year.

(1) The person is a limited liability company not treated as a separate C corporation for federal income tax purposes, or the person is a pass-through entity.

(2) The person owns and operates a public utility in this state and as such is required by law to file reports with the tax commissioner and pay an excise tax upon its gross receipts.

(B) Except as provided in division (C) of this section, each corporation directly or indirectly owning or directly or indirectly having an equity investment in an exempted investment shall make the adjustments required by divisions (B)(1) to (4) of this section.

(1) The corporation shall deduct from its net income the distributive share of net income and gain attributable to the corporation's exempted investment, but only to the extent such net income and gain are included in the corporation's net income without regard to this section.

(2) The corporation shall add to its net income the distributive share of expenses and losses attributable to the exempted investment, but only to the extent such expenses and losses have been deducted in calculating the corporation's net income without regard to this section.

(3)(a) The corporation shall exclude from the calculation of its property, payroll, and sales factors, as defined in divisions (B)(2)(a) to (c) of section 5733.05 of the Revised Code, the corporation's proportionate share of the property, payroll, and sales attributable to the exempted investment, but only to the extent the corporation's proportionate share of the property, payroll, and sales attributable to the exempted investment would be included in the calculation of the corporation's property,



payroll, and sales factors under section 5733.057 of the Revised Code without regard to this section.

(b) Division (B)(3)(a) of this section does not apply to division (B)(2)(d) of section 5733.05 of the Revised Code.

(4) Notwithstanding section 5733.98 of the Revised Code to the contrary, a corporation shall not be allowed any nonrefundable credit or nonrefundable credit carryforward listed in that section to the extent the credit is attributable to the corporation's direct or indirect ownership of or equity investment in an exempted investment and such credit directly relates to the owning and operating of a public utility in this state by a person described in divisions (A)(1) and (2) of this section.

(C)(1) The adjustments provided by division (B) of this section shall be allowed and required only to the extent that such adjustments directly relate to the owning and operating of a public utility in this state by a person described in divisions (A)(1) and (2) of this section.

(2) To the extent that any gross receipts of a person described in divisions (A)(1) and (2) of this section are not for business done by such person from the direct or indirect operation of, or the direct or indirect ownership of, a public utility in this state, then such gross receipts and related property and payroll shall not be subject to the adjustment otherwise provided by division (B) of this section.

(3) Division (B) of this section does not apply to the corporation, and section 5733.057 of the Revised Code shall apply to the corporation's computation of its net income, its property, payroll, and sales factors, and its credits to the extent that the person described in divisions (A)(1) and (2) of this section directly or indirectly owns or directly or indirectly has an equity investment in any other person described in division (A)(1) of this section but not described in division (A)(2) of this section.

(D) Section 5733.057 of the Revised Code applies for purposes of the ownership and investment criteria set forth in this section.

(E) This section is effective for taxable years ending after September 28, 1997.