



Ohio Revised Code

Section 5733.068 Credit allowed to member of qualifying affiliated group.

Effective: June 30, 1997

Legislation: House Bill 215 - 122nd General Assembly

(A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code and is ascertained on the last day of the taxable year.

(2) "Excess tax" means the difference, if any, between the amount described in division (A)(2)(a) of this section and the amount described in division (A)(2)(b) of this section:

(a) The tax imposed by section 5733.06 of the Revised Code for the tax year without regard to any credits provided by the Revised Code;

(b) The tax imposed by section 5733.06 of the Revised Code for the tax year without regard to divisions (I)(12) and (13) of section 5733.04 of the Revised Code, sections 5733.054 and 5733.055 of the Revised Code, and any credits provided by the Revised Code.

(3) "Qualifying affiliated group" means an affiliated group meeting all of the following requirements:

(a) The aggregate of the excess tax for the tax year for the taxpayers that are members of the affiliated group exceeds three million five hundred thousand dollars;

(b) On January 1, 1991, the affiliated group had as a member of such affiliated group a corporation meeting all three of the following requirements:

(i) The corporation is described in division (C)(1) of section 5733.042 of the Revised Code.

(ii) The corporation was incorporated prior to January 1, 1991, in a state other than this state.



(iii) At no time since the date of incorporation did the corporation conduct activities other than those activities described in division (C)(1) of section 5733.042 of the Revised Code.

(c) If any member of an affiliated group was a taxpayer on January 1, 1991, the affiliated group, no later than September 30, 1991, under penalty of falsification under section 2921.13 of the Revised Code, informs the tax commissioner by certified mail of the affiliated group's estimated credit, allowed by divisions (B) and (C) of this section, against the tax imposed by this chapter for the 1992 tax year. The amount so reported does not prevent the affiliated group from claiming a credit amount greater than or less than the amount reported under division (A)(3)(c) of this section. Division (A)(3)(c) of this section does not apply to tax years after the 1992 tax year.

(B) Except as limited by divisions (C) and (E) of this section, a taxpayer that is a member of a qualifying affiliated group is allowed a nonrefundable credit for the tax year against the tax imposed by section 5733.06 of the Revised Code. The nonrefundable credit shall be claimed in the order required under section 5733.98 of the Revised Code, and is equal to the lesser of the amounts described in divisions (B)(1) and (2) of this section:

(1) The excess tax reduced by three million five hundred thousand dollars;

(2) One million five hundred thousand dollars.

(C) Notwithstanding division (B) of this section to the contrary, the maximum nonrefundable credit allowed by this section for the tax year to all taxpayers that are members of the same qualifying affiliated group cannot exceed in the aggregate one million five hundred thousand dollars.

(D) A taxpayer that is allowed the nonrefundable credit provided by this section shall allocate the nonrefundable credit to itself and to other taxpayers within the qualifying affiliated group in any proportion elected by the qualifying affiliated group.

(E) Notwithstanding any other division of this section to the contrary, the nonrefundable credit shall not be claimed or allowed any time prior to the first day of July following the tax year in which the nonrefundable credit would be allowed without regard to this division; nor shall the nonrefundable credit be claimed or allowed any time after the first day of August following the tax year in which



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the nonrefundable credit would be allowed without regard to this division. This division does not apply to tax years after tax year 1993.