



Ohio Revised Code

Section 5733.34 Credit for economic redevelopment of voluntary environmental clean-up site.

Effective: September 29, 1997

Legislation: House Bill 215 - 122nd General Assembly

(A) As used in this section:

(1) "Partnership" includes a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

(2) "Partner" includes a member of a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for a taxpayer that has entered into an agreement with the director of development under section 122.16 of the Revised Code, or for a taxpayer that is a partner in a partnership that has entered into such an agreement. If a taxpayer is a partner in such a partnership, the taxpayer shall be allowed its distributive share of the credit available through the partnership.

(2) If a taxpayer enters into more than one agreement under section 122.16 of the Revised Code, the taxpayer may aggregate the amount of those credits each year.

(3) A taxpayer entitled to the credit allowed under this section shall claim one-fifth of the credit amount for the tax year immediately following the calendar year in which the agreement is entered into, and one-fifth of the credit amount for each of the four succeeding tax years.

(4) A taxpayer shall claim the credit in the order provided under section 5733.98 of the Revised Code. The amount of the credit that a taxpayer may claim each year shall be the amount indicated on the certificate issued by the director of development under section 122.16 of the Revised Code, or the taxpayer's distributive share of that amount if the taxpayer is entitled to the credit through a



partnership. The taxpayer shall submit the certificate with the taxpayer's annual report filed under section 5733.02 of the Revised Code. Each tax year, any credit amount in excess of the tax due for that year under section 5733.06 of the Revised Code, after allowing for all other credits preceding the credit in that order, may be carried forward for no more than three tax years.

(5) A taxpayer shall not claim any credit amount remaining, including any amounts carried forward from prior tax years, for any tax year following the calendar year in which any of the following events occur, except as otherwise provided under division (B)(6) of this section:

(a) The taxpayer or partnership through which the taxpayer is entitled to the credit enters into a compliance schedule agreement pursuant to division (B)(3) of section 3746.12 of the Revised Code;

(b) The taxpayer or partnership through which the taxpayer is entitled to the credit has its covenant not to sue revoked pursuant to Chapter 3746. of the Revised Code and rules adopted under that chapter;

(c) The covenant not to sue issued to the taxpayer or partnership through which the taxpayer is entitled to the credit is void pursuant to Chapter 3746. of the Revised Code;

(d) The director of development has determined that the taxpayer, or a partnership through which the taxpayer is entitled to the credit, has permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of section 122.16 of the Revised Code.

If a taxpayer claims credits through more than one partnership, division (B)(5) of this section prohibits that taxpayer from claiming a credit through any of those partnerships that has entered into a compliance schedule agreement, has had its covenant not to sue revoked or voided, or has violated the commitment required in division (D) of section 122.16 of the Revised Code. Division (B)(5) of this section does not prohibit such a taxpayer from claiming a credit through a partnership that has not entered into a compliance schedule agreement, has not had its covenant not to sue revoked or voided, or has not violated the commitment required in division (D) of section 122.16 of the Revised Code.



(6) If a taxpayer has been prohibited from claiming the credit or a portion of the credit by reason of division (B)(5)(a) of this section, and the taxpayer, or a partnership in which the taxpayer is a partner, subsequently has returned the property to compliance with applicable standards pursuant to the compliance schedule agreement, the taxpayer may claim the credit for the tax year following the calendar year in which the director of environmental protection has determined that the taxpayer or partnership has returned the property to compliance with applicable standards and for each subsequent tax year for which the taxpayer is otherwise allowed to claim the credit under division (B)(3) of this section.