



## Ohio Revised Code

### Section 5733.401 Investment in pass-through entities.

Effective: December 13, 2002

Legislation: House Bill 675 - 124th General Assembly

---

(A) As used in this section:

(1) "Investment pass-through entity" means a pass-through entity having for its qualifying taxable year at least ninety per cent of its gross income from transaction fees in connection with the acquisition, ownership, or disposition of intangible property, loan fees, financing fees, consent fees, waiver fees, application fees, net management fees, dividend income, interest income, net capital gains from the sale or exchange of intangible property, or distributive shares of income from pass-through entities; and having for its qualifying taxable year at least ninety per cent of the net book value of its assets represented by intangible assets. Such percentages shall be the quarterly average of those percentages as calculated during the pass-through entity's taxable year.

(2) "Net management fees" means management fees that a pass-through entity earns or receives from all sources, reduced by management fees that the pass-through entity incurs or pays to any person.

(B) For the purposes of divisions (A) and (C) of this section only, an investment in a pass-through entity shall be deemed to be an investment in an intangible asset, and sections 5733.057 and 5747.231 of the Revised Code do not apply for the purposes of making the determinations required by division (A) of this section or claiming the exclusion provided by division (C) of this section.

(C)(1) Except as otherwise provided in division (C)(2) of this section, for the purposes of division (A) of section 5733.40 of the Revised Code, an investment pass-through entity shall exclude from the calculation of the adjusted qualifying amount the portion of the investment pass-through entity's net income attributable to transaction fees in connection with the acquisition, ownership, or disposition of intangible property; loan fees; financing fees; consent fees; waiver fees; application fees; net management fees; dividend income; interest income; net capital gains from the sale, exchange, or other disposition of intangible property; and all types and classifications of income attributable to distributive shares of income from other pass-through entities. Nothing in this division shall be construed to provide for an exclusion of any item from adjusted qualifying amount more



than once.

(2) Notwithstanding division (C)(1) of this section, the portion of the investment pass-through entity's net income attributable to net management fees shall not be excluded from the calculation of the adjusted qualifying amount if such net management fees exceed five per cent of the entity's net income calculated in accordance with generally accepted accounting principles.