



## Ohio Revised Code

### Section 5747.30 Exemption for nonresident pass-through entities as to commercial printing.

Effective: September 29, 1997

Legislation: House Bill 215 - 122nd General Assembly

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(A) As used in this section:

(1) "Commercial printer," "commercial printing," "contract for printing," "intangible property located at the premises of a commercial printer," and "printed material" have the same meanings as in division (D) of section 5733.09 of the Revised Code.

(2) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) Except as provided in divisions (C) and (D) of this section, a nonresident not otherwise subject to the tax imposed by section 5747.02 of the Revised Code for a taxable year does not become subject to that tax for the taxable year solely by reason of any one or more of the following occurring in this state during all or any portion of the taxable year:

(1) Ownership by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of tangible personal property or intangible property located during all or any portion of the taxable year at the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property;

(2) Sales by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of property produced at and shipped or distributed from the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or



nonresident's related member has a contract for printing with respect to such property;

(3) Activities of employees, officers, agents, or contractors of the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, on the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing, where such activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(C) The exemption under this section does not apply to a taxable year during any portion of which the individual or estate directly or indirectly owned or invested in a pass-through entity which during any portion of the taxable year of the individual or estate owned or used all or a portion of its property or capital in this state or earned or received income in this state or was doing business in this state. The exemption under this section also does not apply to any individual or estate for a taxable year during any portion of which the individual or estate directly or indirectly owned or invested in a pass-through entity which during any portion of such taxable year was a related member to any entity which during any portion of such taxable year owned or used all or a portion of its property or capital in this state or earned or received income in this state or was doing business in this state.

(D) With respect to allowing the exemption under this section, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A nonresident shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this section did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5747.02 of the Revised Code.

Application of the doctrines listed in this division is not limited to this section.