



Ohio Revised Code

Section 2131.09 Exemption of certain trusts.

Effective: March 27, 2013

Legislation: House Bill 479 - 129th General Assembly

(A) A trust of real or personal property created by an employer as part of a stock bonus plan, pension plan, disability or death benefit plan, or profit-sharing plan, for the benefit of some or all of the employees, to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees or their beneficiaries the earnings or the principal, or both earnings and principal, of the fund so held in trust is not invalid as violating the rule against perpetuities, any other existing law against perpetuities, or any law restricting or limiting the duration of trusts; but the trust may continue for the time that is necessary to accomplish the purposes for which it was created.

The income arising from any trust within the classifications mentioned in this division may be accumulated in accordance with the terms of the trust for as long a time as is necessary to accomplish the purposes for which the trust was created, notwithstanding any law limiting the period during which trust income may be accumulated.

No rule of law against perpetuities or the suspension of the power of alienation of the title to property invalidates any trust within the classifications mentioned in this division unless the trust is terminated by decree of a court in a suit instituted within two years after June 25, 1951.

(B)(1) No rule of law against perpetuities or suspension of the power of alienation of the title to property, any other existing law against perpetuities, or any law restricting or limiting the duration of trusts shall apply with respect to any interest in real or personal property held in trust if both of the following apply:

(a) The instrument creating the trust specifically states that the rule against perpetuities or the provisions of division (A) of section 2131.08 of the Revised Code shall not apply to the trust.

(b) The trustee has unlimited power, or one or more persons have the unlimited power to direct the trustee or to approve the trustee's decision, either to sell all trust assets or to terminate the entire



trust.

(2) Division (B)(1) of this section shall apply to the interpretation of a testamentary or inter vivos trust instrument that creates an interest in real or personal property in relation to which one or more of the following conditions apply:

(a) The instrument creating the testamentary or inter vivos trust is executed in this state.

(b) The sole trustee or one of the trustees is domiciled in this state.

(c) The testamentary or inter vivos trust is administered in this state or the situs of a substantial portion of the assets subject to the testamentary portion of the testamentary or inter vivos trust is in this state, even though some part or all of those assets are physically deposited for safekeeping in a state other than this state.

(d) The instrument creating the testamentary or inter vivos trust states that the law of this state is to apply.

(3) Subject to division (C) of this section, division (B) of this section shall be effective with respect to all of the following:

(a) An interest in real or personal property in trust created under the terms of a will of a decedent dying on or after March 22, 1999;

(b) An interest in real or personal property created under the terms of an inter vivos or testamentary trust instrument executed on or after March 22, 1999;

(c) An interest in real or personal property in trust created by the exercise of a general power of appointment on or after March 22, 1999;

(d) An interest in real or personal property in trust created by the exercise of a nongeneral power of appointment over any portion of a trust that meets the requirements of division (B) of this section, but only if the date of creation of that nongeneral power of appointment is on or after the effective



date of this section.

(C) The exercise of a nongeneral power of appointment granted over any portion of a trust to which the rule against perpetuities does not apply because the terms of the trust meet the requirements of division (B) of this section shall nevertheless be subject to section 2131.08 of the Revised Code, except that interests created pursuant to the exercise of a nongeneral power of appointment that has a date of creation on or after the effective date of this section shall be required to vest not later than one thousand years after the date of creation of that power.

(D) For purposes of this section, the instrument creating a trust subject to a power reserved by the grantor to amend, revoke, or terminate the trust shall include the original instrument establishing the trust and all amendments to the instrument made prior to the time at which the reserved power expires by reason of the death of the grantor, by release of the power, or otherwise.

(E) The amendment of division (B)(1) of this section and divisions (D) and (F) of this section are intended to clarify the provisions of this section as originally enacted and apply to trust instruments that are in existence prior to, on, or after the effective date of this section.

(F) For purposes of this section:

(1) "General power of appointment" means a power that is exercisable in favor of the individual possessing the power, the individual's estate, the individual's creditors, or the creditors of the individual's estate other than either of the following:

(a) A power that is limited by an ascertainable standard as defined in section 5801.01 of the Revised Code;

(b) A power of withdrawal held by an individual, but only to the extent that it does not exceed the amount specified in section 2041(b)(2) or 2514(e) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1 et seq., as amended.

(2) "Nongeneral power of appointment" means any power of appointment that is not a general power of appointment.



(3) The "date of creation" of a nongeneral power of appointment created by the exercise of one or more powers of appointment, except by the exercise of a general power of appointment exercisable by deed, shall be the date of creation of the first of those powers of appointment to be exercised.

(4) "Exercisable by deed" has the same meaning as in section 2131.08 of the Revised Code.