



## Ohio Revised Code

### Section 5733.052 Combining net incomes of corporations.

Effective: March 27, 2020

Legislation: House Bill 197 - 133rd General Assembly

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(A) At the discretion of the tax commissioner, any taxpayer that owns or controls either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, or has more than fifty per cent of its capital stock with voting rights owned or controlled either directly or indirectly by another corporation, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, may be required or permitted, for purposes of computing the value of its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, to combine its net income with the net income of any such other corporations.

(B) A combination of net income may also be made at the election of any two or more taxpayers each having income, other than dividend or distribution income, from sources within Ohio, provided the ownership or control requirements contained in division (A) of this section are satisfied and such combination is elected in a timely report which sets forth such information as the commissioner requires. This election, once made by two or more such taxpayers, may not be changed by such taxpayers with respect to amended reports or reports for future years without the written consent of the commissioner. As used in this section, "income from sources within Ohio" means income that would be allocated or apportioned to Ohio if the taxpayer computed its franchise tax without regard to this section.

(C) No combination of net income under division (A) of this section shall be required unless the commissioner determines that, in order to properly reflect income, such a combination is necessary because of intercorporate transactions and the tax liability imposed by section 5733.06 of the Revised Code.

(D) In case of a combination of income, the net income of each taxpayer shall be measured by the combined net income of all the corporations included in the combination. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the corporation were a taxpayer under this chapter. In computing combined net income, intercorporate



transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report.

(E) For purposes of division (B) of section 5733.05 of the Revised Code, each taxpayer's net income allocated or apportioned to this state shall be computed as follows: to compute the taxpayer's net income allocated to this state for purposes of division (B)(1) of section 5733.05 of the Revised Code, the taxpayer's net income for sources allocated under section 5733.051 of the Revised Code shall be separately determined, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code. To compute the taxpayer's net income apportioned to this state for purposes of division (B)(2) of section 5733.05 of the Revised Code, the combined net income, other than net income from sources allocated under section 5733.051 of the Revised Code, shall be apportioned to Ohio and then prorated to the taxpayer on the basis of its proportionate part of the factors used to apportion the total of such net income to Ohio.