

TO BE RESCINDED

5703-5-06

Combined reporting of the corporation franchise tax.

For the purpose of determining the Ohio corporation franchise tax, levied for the corporation's privilege of doing business in this state, owning or using a part or all of its capital or property in this state, or holding a certificate of compliance with the laws of this state authorizing it to do business in this state during the calendar year, two or more taxpayers may elect, or the Tax Commissioner may require corporations to file a combined report pursuant to Section 5733.052 of the Revised Code.

Combined reporting, whether elected, permitted or required, shall reflect combined net incomes, combined apportionment factors, and the elimination of intercorporate transactions and dividends necessary to measure the proper extent of the combined corporations' business activities in Ohio for purposes of the corporation franchise tax.

(A) Taxpayers' Election - Combined Reporting

An election to file combined franchise tax reports may be exercised by two or more corporate taxpayers pursuant to Section 5733.052, Revised Code, subject to the following:

- (1) The elected combination shall include only corporations subject to the Ohio franchise tax imposed by Chapter 5733. of the Revised Code;
- (2) The elected combination shall include the taxpayer corporation that owns or controls, directly, indirectly, or through related interests, more than fifty (50) percent of the capital stock with voting rights of the other taxpayer corporation(s) in the combination;
- (3) The elected combination shall include one or more other taxpayer corporations more than fifty (50) percent of the capital stock with voting rights of which are owned or controlled, directly, indirectly, or through related interests by another taxpayer corporation in the combination;
- (4) The elected combination constitutes a proper measurement of the taxpayer corporations' annual franchise tax as reflected by the use of combined net incomes, combined apportionment factors, elimination of intercorporate transactions and dividends, and the absence of other taxpayer corporations eligible, but excluded, from such combination.

The election to file combined franchise tax reports, once made, shall be binding upon all corporations which so elected or which could have so elected. An election pursuant to Division (A) of this Rule will be considered

exercised by the filing of an annual franchise tax report reflecting combined reporting therein. This election shall not be amended or altered by the taxpayer corporations except when specifically required or specifically permitted by the Tax Commissioner.

(B) Tax Commissioner's Authority - Combined Reporting

Pursuant to Section 5733.052, Revised Code, the Tax Commissioner may, in order to achieve the proper measurement of franchise tax for a taxpayer corporation and interrelated corporations, require or permit:

- (1) The addition to or deletion from an elected combined report of any taxpayer corporation or any other corporation that owns, directly, indirectly, or through related interests, more than fifty (50) percent of the capital stock with voting rights of one or more taxpayer corporations in such elected combined report;
- (2) The addition to or deletion from an elected combined report of any taxpayer corporation or any other corporation more than fifty (50) percent of the capital stock with voting rights of which is owned, directly, indirectly, or through related interests by one or more taxpayer corporations in such elected combined report;
- (3) The combined reporting by or the separate reporting of any taxpayer corporations or any other corporations interrelated by the ownership, directly, indirectly, or through related interests, of more than fifty (50) percent of the capital stock with voting rights;
- (4) The modification of combined reporting by the use, if reasonable, of:
 - (a) separate accounting;
 - (b) the exclusion of one or more factors;
 - (c) the inclusion of one or more additional factors.

Any combined or separate reporting required by the Tax Commissioner pursuant to Division (B) of this Rule shall be effective only upon written notice to that effect served upon the subject corporations.

(C) Procedures for Permission or Alteration - Combined Reporting

Requests for permission to file combined reports that do not qualify for election under Division (A) of this Rule, or requests to amend existing elected, required, or permitted combined reports must be filed with the Tax Commissioner, using form FT-COM

prescribed for such purpose. The filing of a properly completed form FT-COM shall constitute:

- (1) For current and future reports, tentative approval to reflect the requested combined reporting, alterations, or amendments in the annual report next due, subject to final approval or rejection by the Tax Commissioner;
- (2) For prior reports, an application for refund pursuant to Section 5733.12, Revised Code, to the extent the requested combined reporting, alterations, or amendments constitute a claim for refund of payments within the statute of limitations period set forth in Section 5733.12, Revised Code.

(D) Reporting Requirements - Combined Reporting

Under combined reporting, whether elected, permitted, or required, the annual franchise tax report shall include form FT-1120C, prescribed for such purposes. The tax charged on the annual combined report shall be the greater of the sum determined by application of divisions (A) and (B) of Section 5733.06, Revised Code, to the combined value of the issued and outstanding stock of the combined corporations as reflected by the net income of such corporations apportioned and allocated to Ohio or by application of division (C) of Section 5733.06 to the value of the issued and outstanding stock of the combined corporations as determined under division (A) of Section 5733.05 of the Revised Code.

Each corporation in a combined franchise tax report must compute the value of its issued and outstanding shares of stock pursuant to divisions (A) and (B) of Section 5733.05, Revised Code, as of the year end and for the period required by Rule 5703-5-03 for each corporation.

In addition, the annual franchise tax combined report shall include:

- (1) An identification of and a description of any interrelated ownership interests between taxpayer corporations in the combined report and any eligible taxpayer corporations not participating in the combined report;
- (2) Where an election to file combined reports was made by less than all eligible taxpayer corporations, an explanation of the reason for the nonparticipation by such eligible taxpayer corporations;
- (3) A summary of the types of intercorporate transactions occurring between taxpayer corporations in the combined report and eligible, nonparticipating taxpayer corporations.

Replaces: former TX-43-08

Effective: 9/7/2018

Five Year Review (FYR) Dates: 6/20/2018

CERTIFIED ELECTRONICALLY

Certification

08/28/2018

Date

Promulgated Under: 119
Statutory Authority: 5703.05
Rule Amplifies: 5733.031
Prior Effective Dates: 02/29/1976