

For taxable years beginning in

2010

Ohio IT 1041
Fiduciary Income Tax
Return Instructions

Rev. 10/10

Ohio

Department of
Taxation

tax.ohio.gov

2010 Ohio Form IT 1041 General Instructions

IT 1041
Rev. 10/10

In our effort to serve Ohio taxpayers in a cost-effective manner, the Ohio Department of Taxation did not mail Ohio forms IT 1041, IT 1041ES and IT 1041EXT.

See page 14 for a detailed discussion of "Matching Expense and Loss Amounts and Distribution Deductions Against Income and Gain."

If you will be providing taxpayer estimated income tax information on a cartridge tape, please see "Cartridge Tape IT 1041ES/IT 1041EXT Filing Requirements Definition," which is part of Ohio form IT 1041ES on our Web site (tax.ohio.gov).

Who Does Not Have to File a Return?

Ohio Revised Code section (R.C.) 5747.02(E) excludes the following types of trusts from filing Ohio form IT 1041:

- Grantor trusts
- Charitable remainder trusts
- Retirement trusts
- Pre-need funeral trusts
- Qualified funeral trusts
- Endowment and perpetual care trusts
- Qualified settlement trusts and funds
- Retirement trust funds.

Any other trust or estate is not required to file a 2010 Ohio form IT 1041 with the state of Ohio if **all** of the following apply:

- The fiduciary's year 2010 federal form 1041 shows no taxable income or has a negative taxable income (e.g., simple trusts and most estate tax returns), AND
- The estate or trust did not earn or receive any business income apportioned to Ohio, AND
- The estate or trust did not earn or receive any nonbusiness income allocated to Ohio, AND
- There are no Ohio adjustments that would result in Ohio taxable income, AND
- If the taxpayer is a trust, no portion of the trust is an electing small business trust.

Who Has To File a Return?

All estates not excluded above, residing in Ohio or earning or receiving income in Ohio, must file an Ohio Fiduciary Income Tax Return (Ohio form IT 1041) for the taxable year.

Amended Substitute House Bill 66, 126th General Assembly, made permanent Ohio's income tax on **all trusts not excluded above** and that meet any one or more of the following requirements:

- The trust resides in Ohio, OR
- The trust earns or receives Ohio source income (income apportioned to Ohio or allocated to Ohio), OR
- The trust earns or receives lottery winnings, prizes or awards paid by the Ohio Lottery Commission, OR
- The trust otherwise has nexus with or in Ohio under the Constitution of the United States.

Qualified Pre-Income Tax Trusts

Trusts that are described in R.C. 5747.01(FF) and that timely and properly made the election described in that division are not subject to Ohio income tax. Such trusts should file only page 1 of Ohio form IT 1041 and complete that page as follows:

- Enter on line 1 the trust's federal taxable income.
- Enter on line 2 as a negative number the amount shown on line 1.
- To the left of the amount entered on line 2 print "5747.01(FF)."
- Enter -0- on lines 3, 13 and 17.

Important: The trust must attach to the return a copy of the Ohio Department of Taxation-issued letter acknowledging that the trust is exempt from Ohio income tax.

Tax Rates

The same income brackets and tax rates that apply to the Ohio taxable income of individuals apply to the Ohio taxable income of estates and to the modified Ohio taxable income of trusts. See the tax table on page 11.

Income Taxed to the Estate

The income tax imposed on the fiduciary is based upon the estate's Ohio taxable income. The tax is reduced by the Schedule B credits, the Schedule C resident credit, the Schedule D nonresident credit, the allowable Schedule E business credits and the new manufacturing machinery and equipment grant.

If the executor and trustee make the Internal Revenue Code section (I.R.C.) 645 election, then for Ohio income tax purposes (i) the estate must include the income of the trust and (ii) the trust itself is not subject to Ohio's income tax for the taxable years to which the election applies. As such, when the estate files its Ohio fiduciary income tax return, the estate cannot "back out" from the estate's federal taxable income the trust's portion of income and deductions.

Income Taxed to the Trust

The income tax imposed on the fiduciary shall apply to the trust's modified Ohio taxable income. The tax is reduced by the Schedule I trust credit, the allowable Schedule E business credits and the new manufacturing machinery and equipment grant.

Most Common Situations for Trusts

- A nonresident trust investing only in savings accounts, certificates of deposit, publicly traded stocks, bonds, commercial paper and/or mutual funds **will not owe** any Ohio income tax if the nonresident trust has no significant ownership interest in these investments. The trust need not file Ohio form IT 1041.
- A resident trust investing only in savings accounts, certificates of deposit, stocks, bonds, commercial paper and/or mutual funds **will owe** Ohio income tax if the trust had federal taxable income after distributions. The tax on each resident trust will generally be based upon the trust's federal taxable income, plus or minus the adjustments set forth on Ohio form IT 1041.

Definition of "Resident" Trust

R.C. 5747.01(l)(3) defines "resident" for purposes of Ohio's income tax on trusts.

A testamentary trust resides in Ohio if the decedent at the time of death was domiciled in Ohio for Ohio estate tax purposes (see R.C. chapter 5731).

An **inter vivos irrevocable trust** resides in Ohio if (i) at least one “qualifying beneficiary” [see R.C. 5747.01(I)(3)(c)] is domiciled in Ohio for all or a portion of the trust’s taxable year **and** (ii) at any time the trust received assets from one or more of the following:

- An individual who was domiciled in Ohio for income tax purposes at the time he/she transferred assets to the trust; OR
- An individual who was domiciled in Ohio for income tax purposes at the time the trust document became irrevocable – even if the individual was not domiciled in Ohio at the time he/she transferred the assets to the trust; OR
- An estate of an individual who at the time of death was domiciled in Ohio for estate tax purposes; OR
- An insurance company, pension plan or court award on account of the death of an individual, and at the time of the individual’s death either (i) the individual was domiciled in Ohio for estate tax purposes or (ii) the owner of the insurance policy was domiciled in Ohio for income tax purposes.

Note: The above listing is not all inclusive. For additional information, see divisions (I)(3)(a), (I)(3)(e) and (I)(3)(f) of R.C. 5747.01.

Return Due Date

The Ohio fiduciary income return is due on the same date (or extended due date) as IRS form 1041. **Note:** Ohio will follow the lead of the IRS by extending the filing deadline for taxable year 2010 to April 18, 2011.

Extensions to File

If the trust or estate qualifies for and receives a federal extension of time to file, then the trust or estate automatically has the same extension of time to file the Ohio return. However, the trust or estate must include a copy of the federal extension to the Ohio return. If the fiduciary electronically obtained the federal extension, then, when filing the Ohio form IT 1041, the fiduciary must provide the federal confirmation number for the extension.

Caution: An extension of time to file does not give the estate or trust an extension of time to pay. Make Ohio extension payments on the 2010 Ohio form IT 1041EXT or IT 1041ES, which are available on the department’s Web site at tax.ohio.gov.

Apportioned Business Income for Trusts

With respect to a trust’s modified business income and the qualifying investment income, the portion that is subject to Ohio income tax is calculated by multiplying these items of income by the Ohio apportionment factor (see page 12 of these instructions).

Allocated Nonbusiness Income for Trusts

With respect to a trust’s modified nonbusiness income, resident trusts must allocate to Ohio all such income. Nonresident trusts, on the other hand, will allocate only certain types of such income to Ohio (see instructions for line 63).

Credits and Grant Available to Trusts and Estates

Some credits noted below apply only to estates. When calculating the amount of your applicable credits, please use the correct schedules.

Both trusts and estates are entitled to the refundable business jobs credit and the refundable pass-through entity credit. In addition, both trusts and estates may claim one or more of the nonrefundable business credits in Schedule E. Schedule E is not contained in this booklet. To obtain a copy of Schedule E, visit our Web site

at tax.ohio.gov. **Note:** The political contributions credit does not apply to trusts.

Only estates are entitled to the credits set forth in Schedule B of Ohio form IT 1041. These credits include the retirement income credit, the senior citizen’s credit and the Ohio political contributions credit. Only estates are entitled to a resident credit, and estates and trusts each have a different method of calculating the nonresident credit.

Trusts are not eligible for either the resident credit or the nonresident credit. However, Ohio law does allow each trust to claim a credit equal to the lesser of (i) the tax paid to another state or the District of Columbia on such modified nonbusiness income or (ii) the average effective tax rate multiplied by the portion of the trust’s modified nonbusiness income subjected to income tax in another state or in the District of Columbia. The trust must claim this credit before claiming any other credit available to the trust. See the last sentence of division (D) of R.C. 5747.02.

You can find more information on the Department of Taxation’s Web site at tax.ohio.gov (click on “News Releases”).

Manufacturing Equipment Grant

For taxable years ending on or after July 1, 2005, the R.C. 5747.31 manufacturer’s credit for purchases of new manufacturing machinery and equipment (the 7.5%-13.5% manufacturer’s credit), converts to a grant administered by the Ohio Department of Development. For taxable years ending before July 1, 2005, the credit continues to apply. See line item 10 instructions (also see 2010 Ohio Schedule E, Nonrefundable Business Credits).

Penalties and Interest

If the trust or estate **fails to file** the Ohio fiduciary income tax return by the due date (or extended federal due date), the law provides for a **failure to file penalty**, which is the greater of \$50 per month up to a maximum of \$500, or 5% per month up to a maximum of 50% of the tax.

If the trust or estate **fails to pay** the full amount of tax by the 15th day of the fourth month following the last day of the taxable year, the law provides for a **failure-to-pay penalty**, which is up to a maximum of double the interest charged. The penalty will not apply if (i) the trust or estate obtained a federal extension of time to file (ii) the trust’s or estate’s total payments made by the due date without extension equal or exceed 90% of the total Ohio tax due and (iii) by the extended due date the trust or estate pays the balance of the tax due. To make an extension payment, please use the 2010 Ohio form IT 1041EXT or IT 1041ES on our Web site at tax.ohio.gov.

In all cases, interest is due on the late payments from the unextended due date to the date of payment. The interest rate is 4% per annum for 2010 and 2011.

Underpayment of Estimated Tax Interest Penalty

The estate or trust will owe an interest penalty if (i) the Ohio tax less withholding (e.g., Ohio lottery withholdings) and credits is greater than \$500 and (ii) withholdings and refundable credits are less than both of the following:

- 90% of your 2010 Ohio tax (Ohio form IT 1041, line 11); AND
- 100% of your 2009 Ohio tax (Ohio form IT 1041, line 11).

If the estate or trust owes an interest penalty, the fiduciary must complete Ohio form IT/SD 2210 and enter the interest penalty on line 12 of Ohio form IT 1041.

Lowering Your Interest Penalty

The estate or trust may not owe the interest penalty, or the estate or trust may be able to lower the amount of interest penalty if the fiduciary completes Ohio form IT/SD 2210 and includes it with this return.

Note: You can obtain Ohio form IT/SD 2210 from our Web site at tax.ohio.gov.

Round to the Nearest Whole Dollar

The law requires estates and trusts to round to the nearest whole dollar. To do so, drop any cents less than 50 cents and increase amounts from 50 cents to 99 cents to the nearest whole dollar.

Preparer's Signature

The Ohio Department of Taxation follows IRS Notice 2004-54, which provides for alternative preparer signature procedures for federal income tax paper returns that paid practitioners prepare on behalf of their clients. Paid preparers can follow those same procedures with respect to the following Ohio paper returns prepared on behalf of their clients: Ohio school district and individual income tax returns, Ohio withholding tax returns (employer and pass-through entity) and Ohio corporation franchise tax reports. Statutory authority: R.C. 5703.262(B) and 5747.08(F).

Exception: The paid preparer should print (rather than write) his/her name on the form if the taxpayer checks "Yes" to the question, "Do you authorize your preparer to contact us regarding this return?"

Amended Returns

You may make any change or correction to your already filed return by filing another Fiduciary Income Tax Return, Ohio form IT 1041, with corrected figures and checking the "Amended Return" box. To speed up the processing of your amended return:

- Attach a copy of your original return, AND
- Attach a copy of any cancelled checks used as payment on the originally filed return.

You can obtain Ohio form IT 1041 from our Web site at tax.ohio.gov. If the fiduciary amends the Federal Fiduciary Income Tax Return or if the fiduciary is audited by the IRS, the fiduciary must file an amended Ohio form IT 1041 within 60 days of the final determination of the federal change.

Caution: The IRS tells us when it makes changes to tax returns. To avoid penalties, be sure to file the amended fiduciary return within 60 days of the final determination of the federal change.

Estimated Tax Payments for Next Year

The estate or trust must make estimated tax payments on the 2011 Ohio form IT 1041ES for the entity's taxable year beginning in 2011 if the 2011 Ohio fiduciary annual income tax after nonrefundable credits is more than \$500. An interest penalty may apply to estimated payments not timely made.

These estimated payments are due on April 18, June 15 and Sept. 15 of the calendar year and Jan. 15 immediately following that calendar year. If the 15th day falls on a weekend or holiday, then the due date is the first business day following the 15th. **Note:** Ohio will follow the lead of the IRS by extending the filing deadline for taxable year 2010 to April 18, 2011.

Late payments of estimated tax are subject to interest penalties (see Ohio form IT/SD 2210). Ohio form IT 1041ES must accompany each estimated payment.

Federal Privacy Act Notice

Because we require the pass-through entity to provide us with each equity investor's Social Security number, the *Federal Privacy Act of 1974* requires us to inform you that providing us with each equity investor's Social Security number is mandatory. Ohio Revised Code sections 5703.05, 5703.057 and 5747.08 authorize us to request this information. We need each equity investor's Social Security number in order to administer this tax.

Line Item Instructions for Ohio Form IT 1041

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Line 1 – Federal Taxable Income

Enter the amount from IRS form 1041, line 22. This amount is net of the income distribution deduction and should include only the income and gain retained by the estate or trust.

Line 2 – Net Adjustments from Schedule A

Schedule A (lines 23 to 42) has a list of the additions and deductions to your federal taxable income. See pages 7-8 of these instructions to read about the additions required and the deductions allowed.

- If the trust or estate has no additions or deductions to its federal taxable income, leave line 2 blank.
- If the trust or estate has additions or deductions in Schedule A, then complete Schedule A.
- If any portion of the trust is an Electing Small Business Trust (ESBT) then the trust must complete lines 2 and 25.

Line 3 – Ohio Taxable Income

Add to or subtract from line 1 the amount of adjustments on line 2.

Line 4 – Allocated Qualifying Trust Amount (Trusts Only)

Enter on line 4 the amount of allocated qualifying trust income/losses from Schedule F, line 58. Enter -0- on line 4 if the trust has no qualifying income and/or losses.

Line 5 – Apportioned Trust Income (Trusts Only)

Enter on line 5 the amount of apportioned business income/losses and apportioned qualifying investment income from Schedule G, line 61. Enter -0- on line 5 if the trust has no apportioned business income/losses and no apportioned qualifying investment income.

If the apportioned income from business income/losses and from apportioned qualifying investment income were received from more than one entity whose businesses are not unitary with each other, then the fiduciary must make a separate apportionment calculation for each business.

Line 6 – Allocated Trust Income (Trusts Only)

Enter the amount from Schedule H, line 64.

Line 7 – Calculation of Modified Ohio Taxable Income for Trusts (Trusts Only)

Modified Ohio taxable income of a trust represents the portion of Ohio taxable income that is apportioned and allocated to Ohio. Before the trust can apportion and allocate Ohio taxable income, a three-step process under division (S) of R.C. 5747.01 is necessary to calculate the trust's modified Ohio taxable income:

- First, compute federal taxable income as defined and used in the Internal Revenue Code (I.R.C.) (see line 1). Note that federal taxable income is net of the income distribution deduction;
- Second, make the adjustments (additions and deductions) allowable under division (S) of R.C. 5747.01. See lines 23-42. Unlike estates, trusts do not have to add back the amount of the exemption deduction allowable for federal income tax purposes (see line 29);
- Third, determine the trust's modified Ohio taxable income. Modified Ohio taxable income is the sum of the following four amounts:
 - The trust's "qualifying trust amount" multiplied by the Ohio percentage (see Schedule F);

- The trust's "qualifying investment income" (see R.C. 5747.012) multiplied by the Ohio apportionment ratio (see Schedule G);
- The trust's "modified business income" multiplied by the Ohio apportionment ratio (see Schedule G); and
- The trust's "modified nonbusiness income" allocated to this state (see Schedule H).

Line 8 – Tax on Ohio Taxable Income (Estates) or Modified Ohio Taxable Income (Trusts)

Use the tax table found on page 11 to compute the tax based upon the amount on line 3 for estates or line 7 for trusts. This is the same tax rate used for the individual income tax for the same year.

Line 9 – Credits From Schedule B (Estates Only)

Enter the amount of Schedule B credits from line 47 of Ohio form IT 1041.

Line 10 – Schedules C, D, E and I Credits and New Manufacturing Equipment Grant

Both estates and trusts may be entitled to claim one or more non-refundable business credits listed in Schedule E of Ohio form IT 1040, with one exception: Trusts cannot claim the credit for contributions to candidates for Ohio statewide office or for the General Assembly. You may obtain a copy of Schedule E from our Web site at tax.ohio.gov.

The manufacturer's grant applies to taxpayers that purchased, and to taxpayers that have an interest in pass-through entities that purchased, new manufacturing machinery and equipment during the qualifying purchase period July 1, 1995, to June 30, 2005, provided that the taxpayer or the pass-through entity installs the new manufacturing machinery and equipment in Ohio no later than June 30, 2006. The grant is claimed as a direct reduction to the taxpayer's 2010 Ohio income tax liability and, like the manufacturer's credit, is nonrefundable. The concepts, definitions and computations that apply to the credit also apply to the grant.

If the taxpayer's taxable year ended on or after July 1, 2005, the grant applies not only to the qualifying new manufacturing machinery and equipment purchased during the period Jan. 1, 2005, to June 30, 2005, but also to qualifying equipment purchased in 2004 and earlier purchase years. Thus, for taxpayer's whose taxable year ended on or after July 1, 2005, the grant applies to (i) the 1/7 amounts from 2005 qualifying purchases, (ii) the 1/7 amounts from pre-2005 qualifying purchases for which the taxpayer claimed the manufacturer's credit on prior income tax returns and (iii) unused credit carryforwards (limited to a three-year carryforward period).

In addition, **the grant applies only if both of the following conditions are met:**

1. **The taxpayer files a "grant request" form with the taxpayer's 2010 Ohio income tax return.** The grant request form is available on both the Department of Taxation's Web site (tax.ohio.gov) and on the Department of Development's Web site (www.odod.state.oh.us); AND
2. **The purchaser of the qualifying new manufacturing machinery and equipment files a "notice of intent" with the Ohio Department of Development by the date of the taxpayer's timely filed tax return, including extensions, for the taxpayer's taxable year that includes Sept. 30, 2006.** However, if the taxpayer previously filed the notice of intent to claim the

credit, that filing also constitutes a notice of the intent to claim the grant.

Multiply the sum of nonrefundable credits and the grant amount from Schedule E by the estate's or trust's retained percentage of income to calculate the amount of nonrefundable credits and grant available to the estate or trust.

Example: A trust retains 75% of the income from the business and distributes 25% of the income to beneficiaries each year. The trust would be able to claim on Ohio form IT 1041 75% of the sum of (i) the Schedule E nonrefundable credits and (ii) the manufacturing equipment grant. The beneficiaries would be able to claim cumulatively on Ohio form IT 1040 the remaining 25% of the sum of (i) the Schedule E nonrefundable credit and (ii) the manufacturing equipment grant.

Line 11 – Tax After Credits

Subtract any amounts on lines 9 and 10 from the amount on line 8 and enter the result here.

Line 12 – Interest Penalty on Underpayment of Estimated Tax

The trust or estate will owe an interest penalty if line 11, less withholding and timely paid estimated income taxes, is greater than \$500. However, no interest penalty is due if either of the following applies:

- The estate or trust made timely payments of estimated tax, and the payments along with withholdings and refundable credits were at least 90% of the current year's tax; OR
- The estate or trust made timely payments of estimated tax, and the payments along with withholdings and refundable credits were at least 100% of the previous year's tax.

Use Ohio form IT/SD 2210 to compute the interest penalty or to show that no interest penalty is due or on account of an exception. Enter the interest penalty on line 12. Please see "Lowering Your Interest Penalty" on page 4 for more information.

If you file your return after the unextended due date, and you paid and/or will pay after the unextended due date, you owe interest unless the refund, if any, shown on line 8 is greater than any tax paid after the unextended due date. Interest is due on late-paid tax even if the IRS has granted you a filing extension. For a listing of the interest rate for each year, go to tax.ohio.gov and click on "Tax Professionals" and then click on "Interest Rates." Interest is due on all tax that you paid and/or will pay after the unextended due date.

Line 13 – Total Ohio Tax

Add the amounts on lines 11 and 12 and enter the total on line 13. This is your total Ohio tax.

Line 14 – Net Payments

Show on this line the sum of the following amounts:

- Lottery winning withholdings (attach W-2G)
- W-2 withholdings (attach W-2)
- Pass-through entity withholdings (attach K-1)
- Estimated payments
- Last year's overpayment credited to this year
- Extension payments
- Any other payments

Note: Reduce the amount shown on this line by any refunds previously claimed (even if not yet received) and attach a schedule showing (i) payments the trust made and (ii) refunds previously claimed.

Line 15 – Refundable Business Credits

Business Jobs Credit and Ohio Historic Preservation Credit: If the Ohio Tax Credit Authority of the Ohio Department of Development granted the trust or estate either or both of these credits, then enter on this line the amount of credit(s) applicable to the trust or estate here.

Example: A trust has a 50% interest in a business that is entitled to a "new jobs credit" of \$5,000. The trust may claim \$2,500 on line 15.

Refundable Pass-Through Entity Credit: If the trust or estate was a direct or indirect investor in a pass-through entity that filed and paid Ohio tax on Ohio form IT 4708 (Composite Income Tax Return for Certain Investors in a Pass-Through Entity) or on Ohio form IT 1140 (Pass-Through Entity and Trust Withholding Tax Return), the fiduciary should enter the amount of tax paid on behalf of the trust or estate. Trusts and estates claiming this credit **must attach federal K-1s** reflecting the amount of Ohio tax that the pass-through entity paid on behalf of the trust or estate.

The K-1 should show the amount of the distributive share of income; the amount of Ohio tax paid; the legal name of the pass-through entity; and the entity's federal employer identification number. Enter on line 15 the total of the refundable credit. Generally, estates and trusts cannot "pass through" to beneficiaries any refundable credit.

Motion Picture Production Credit

A motion picture company whose motion picture has been certified as a tax credit-eligible production may apply to the director of the Ohio Department of Development on or after July 1, 2009 for a refundable credit against the income tax. The credit equals a percentage of the motion picture company's eligible production expenditures with respect to the tax credit-eligible production. See R.C. 122.85 and 5747.66.

Refundable Credit for Losses on Loans Made to the Ohio Venture Capital (OVC) Program (R.C. 150.01 to 150.10, 5747.80 and 5747.98)

The refundable credit for losses on loans made to the Ohio Venture Capital (OVC) program does not appear on the 2010 Ohio form IT 4708, the 2010 Ohio form IT 1041 or the 2010 Ohio form IT 1040 because no credit certificates were issued for the tax year. The purpose of the credit is to provide OVC lenders and investors some security against losses on their loans to the program.

Substitute Senate Bill 321, 126th Ohio General Assembly, made the credit for losses on loans made to the OVC program refundable. Under prior law the taxpayer had a choice of taking this credit as a refundable credit or as a nonrefundable credit.

Line 17 – Overpayment

If line 16 is more than line 13, then subtract the amount on line 13 from the amount on line 16 and enter the result here. This is your overpayment.

Line 18 – Credit Carryover to 2011

Enter the portion of your overpayment from line 17 that you want to credit toward next year's estimated tax liability.

Line 19 – Refund

Subtract line 18 from line 17. This is the amount you want refunded.

Line 20 – Net Amount Due

If line 16 is less than line 13, then subtract the amount on line 16 from the amount on line 13 and enter the result on this line. This is the net amount due.

Line 21 – Interest and Penalty on Late-Paid and/or Late-Filed Return

See page 3, penalties and interest.

Schedule A – Adjustments to Federal Taxable Income Net of Related Expenses

Additions

The following discussion applies to both trusts and estates except where noted.

Line 23 – Non-Ohio State or Local Government Interest and Dividends

Enter the fiduciary's share of interest and dividends received from non-Ohio state governments and their local government net of related, ordinary, necessary and reasonable expenses to the extent the interest and dividend are not included in federal taxable income and to the extent that such amounts have not been distributed to beneficiaries.

Line 24 – Pass-Through Entity Add-Back and Related Member Add-Back

Add the fiduciary's share of any Ohio form IT 1140 taxes shown on federal K-1s to the extent that those taxes were deducted in arriving at federal taxable income.

Furthermore, in determining Ohio taxable income, each fiduciary having an interest in a qualifying pass-through entity must add to the fiduciary's income the proportionate share of expenses and losses that the pass-through entity incurred with respect to the pass-through entity's 40% or more related members, including the investors' family members. This provision does not apply to the pass-through entity's sales of inventory to such related members to the extent that those losses are calculated in accordance with I.R.C. 482. See R.C. 5733.40(A).

Line 25 – ESBT Income

Add the distributive share of income from an S corporation if:

- such income is not included in the trust's federal taxable income, AND
- such income is not required to be included in any individual's federal adjusted gross income.

Line 26 – Losses From the Sale or Disposition of Ohio Public Obligations

Enter the fiduciary's share of any loss resulting from the sale or disposition of Ohio public obligations to the extent that such losses are deducted in calculating federal taxable income. See R.C. 5747.01(S)(6) and 5709.76.

Line 27 – Recovery of Amount Previously Deducted or Excluded from Federal Taxable Income

Enter the fiduciary's share of any recovery amounts previously deducted on a prior year's Ohio trust or estate income tax return to

the extent that the reimbursement is not included in federal taxable income for 2010.

Line 28 – Depreciation Adjustment

R.C. 5701.11 and 5747.01(S)(14) state that, in determining Ohio taxable income, a taxpayer that for federal income tax purposes claims I.R.C. 168(k) bonus depreciation must add back 5/6 of that bonus depreciation that the taxpayer would have claimed for the taxable year based upon the I.R.C. in effect on Oct. 16, 2009.

The taxpayer must also add back 5/6 of the qualifying section 179 depreciation expense, which is the difference between (i) the amount of depreciation expenses directly or indirectly allowed to the taxpayer under I.R.C. 179 in effect on Oct. 16, 2009 and (ii) the amount of depreciation expense directly or indirectly allowed to the taxpayer under I.R.C. 179 in effect on Dec. 31, 2002.

Under I.R.C. 179 as that section existed on Dec. 31, 2002, the maximum amount that could be expensed was \$25,000 and the phase-out began once the cost of purchases of section 179 property during the year exceeded \$200,000. So, under the prior law a taxpayer could not claim any section 179 expense for the taxable year if the taxpayer's purchases during the year of section 179 property, as defined on Dec. 31, 2002, were \$225,000 or more. In each of the five subsequent taxable years the taxpayer can deduct 1/5 of the amounts previously added back (see instructions for line 39).

These "add-back and subsequent deduction" laws also cover (i) depreciable assets acquired by the taxpayer's disregarded entities and (ii) depreciable assets that are owned by pass-through entities in which the taxpayer directly or indirectly owns at least 5% (see R.C. 5747.01(A)(20)(a)).

In addition, if the taxpayer is an equity investor in a pass-through entity that has claimed I.R.C. 168(k) bonus depreciation and/or I.R.C. 179 depreciation, and if, because of the federal passive activity loss limitation rules or because of the federal at-risk limitation rules, the taxpayer is unable to fully deduct a loss passing through from another pass-through entity to the taxpayer, then to the extent that the taxpayer does not recognize the loss, the taxpayer can defer making the "5/6 add-back" until the taxable year or years for which the taxpayer deducts the pass-through entity loss and receives a federal tax benefit from the bonus depreciation amount and/or I.R.C. 179 amount claimed by the other pass-through entity. Of course, the taxpayer cannot begin claiming the related five-subsequent-years deduction until the first taxable year immediately following the taxable year for which the taxpayer makes the 5/6 add-back. **Note:** Make the add-back only to the extent that the fiduciary did not distribute the related income to the beneficiaries.

For detailed information and examples regarding this adjustment, see the department's information release entitled "Recently Enacted Ohio Legislation Affects Depreciation Deductions for Taxable Years Ending in 2002 and Thereafter" by visiting tax.ohio.gov and clicking on "News Releases." The department issued this information release on July 31, 2002 and revised the release in July 2005.

Line 29 – Personal Exemption (Estates Only), Lump Sum Distribution Add-Back and Miscellaneous Federal Tax Adjustments (Estates and Trusts)

Enter the amount of the personal exemption allowed to the estate pursuant to I.R.C. 642(b).

Lump Sum Distribution Add-Back

Enter any lump sum distribution amount that you have reported on IRS form 4872.

Miscellaneous Federal Income Tax Adjustments

Also enter on this line (i) any income or gain amount that was not included in the taxable income solely because of post-Oct. 16, 2009 amendments to the I.R.C. and (ii) any amount you deducted in arriving at taxable income solely because of post-Oct. 16, 2009 amendments to the I.R.C. For example, you must add back 100% of (i) total depreciation (I.R.C. 167, 168 and 179) allowed over (ii) the total depreciation that you would have been able to claim under the I.R.C. as enacted on Oct. 16, 2009. See R.C. 5701.11.

Note: At the time of the printing of these instructions, there were no federal tax adjustments.

Line 30 – Expenses Claimed on Ohio Estate Return (Estates Only)

Enter on this line expenses deducted on both the federal fiduciary income tax return (IRS form 1041) and the Ohio estate tax return (Ohio form ET 2, which is available on our Web site at tax.ohio.gov). However, enter -0- if this return is the estate's final return.

Line 31 – Total Additions

Enter the totals of lines 23 through 30 on line 31.

Deductions

The following discussion applies to both trusts and estates except where noted. Deduct the income items described below only to the extent that these amounts have not already been deducted or excluded from federal taxable income.

Line 32 – Federal Interest and Dividends

Enter interest and dividend income net of related ordinary, necessary and reasonable expenses, included in federal taxable income, from obligations of the United States government or its possessions/territories that are exempt from Ohio tax by law. Examples of interest-bearing obligations whose interest is exempt from Ohio income tax are Series "E" or Series "H" U.S. Savings Bonds, U.S. Treasury notes and bills, and Sallie Maes.

Line 33 – State and Municipal Income Tax Refunds

Enter the amount of state and/or municipal income tax refunds included in federal taxable income for the taxable year of this return if the refunds relate to taxes previously claimed as itemized deductions on the decedent's federal income tax return.

Line 34 – Losses From an ESBT

Deduct the distributive share of loss from an S corporation if:

- such loss has not been directly or indirectly deducted in computing the trust estate's federal taxable income, AND
- such loss is not deducted by any other person.

Line 35 – Wage and Salary Expense Not Previously Deducted

Deduct the amount of wage and salary expense not otherwise deducted for federal income tax purposes because of the federal targeted jobs credit or work opportunity credits.

Line 36 – Interest/Gains from Ohio Public Obligations

Deduct interest income from Ohio public obligations and Ohio purchase obligations if (i) the interest income was included in federal taxable income and (ii) the fiduciary did not distribute this income to any beneficiary. See R.C. 5747.01(S)(6) and 5709.76.

You may also deduct any gains resulting from the sale or disposition of Ohio public obligations to the extent (i) the income was included in federal taxable income and (ii) the fiduciary did not distribute this income to any beneficiary. See R.C. 5747.01(S)(7) and 5709.76.

Line 37 – Refund or Reimbursements of a Prior Year

Deduction and Miscellaneous Federal Income Tax Adjustments

Deduct refunds or reimbursements received for expenses deducted as an itemized deduction on a prior year federal income tax return if the fiduciary had to add back the refunds or reimbursements on the federal 1041 return. Do not include any amount shown on line 33.

Miscellaneous Federal Income Tax Adjustments

Also enter on this line (i) any income or gain amount that was included in the taxable income solely because of post-Oct. 16, 2009 amendments to the I.R.C. and (ii) any amount you were not able to deduct in arriving at taxable income but you would have been able to deduct under the I.R.C. in effect on post-Oct. 16, 2009. See R.C. 5701.11.

Note: At the time of the printing of these instructions, there were no federal tax adjustments.

Line 38 – Farm Income (Trusts Only)

Deduct any amount that a trust was required to report as farm income on its federal tax return, but only if the assets of the trust directly or indirectly include at least 10 acres of land satisfying the definition of "land devoted exclusively to agricultural use" under R.C. 5713.30 regardless of whether the land is valued for the purposes as such under R.C. 5713.30-5713.38.

Line 39 – 1/5 Bonus Depreciation

Enter on this line 1/5 of the depreciation expense added back on each of the last five year's returns (see instructions for line 28). **Important:** S corporation shareholders cannot claim this deduction with respect to depreciable property for which the add-back occurred while the corporation was a C corporation. See R.C. 5733.40(A)(5), 5747.01(A)(21)(a) and 5747.01 (S)(14).

Line 40 – Repayment of Income Reported in a Prior Year

Enter on this line any amount that was received and included in federal taxable income in a prior year that was paid back in 2010 if (i) the repayment has not otherwise reduced your federal taxable income for 2010 or for any other taxable year and (ii) in the year the income was received the income did not qualify for either the resident or nonresident credit.

Line 41 – Total Deductions

Enter on line 41 the total of lines 32 through 40.

Line 42 – Net Schedule A Adjustments

If line 31 is greater than line 41, subtract line 41 from line 31 and enter the amount on line 42. Also, copy this amount onto line 2 on the front of this return and add this amount to your federal taxable income.

If line 31 is less than line 41, subtract line 31 from line 41 and enter the amount on line 42. Also, copy this amount onto line 2 on the front of this return. Put the amount in parentheses on line 2 to show that it is a negative number. Subtract this amount from your federal taxable income.

Schedule B – Estate Credits

The Schedule B credits correspond to applicable credits found on the Ohio individual income tax return (Ohio form IT 1040).

For a more complete explanation of the credits listed, please refer to the Ohio IT 1040 instruction booklet.

Credit sharing: When calculating credits, the fiduciary cannot include any amounts that are allocable to a beneficiary. Generally these credits are apportioned on the basis of the income allocable to the estate or trust.

Line 43 – Retirement Income Credit

An estate is entitled to a credit for retirement benefits received for the benefit of the decedent’s surviving spouse but not distributed. The amount of the credit is as follows:

\$500 or less	\$ 0
More than \$500 but not more than \$1,500	\$ 25
More than \$1,500 but not more than \$3,000	\$ 50
More than \$3,000 but not more than \$5,000	\$ 80
More than \$5,000 but not more than \$8,000	\$130
More than \$8,000	\$200

Line 44 – Senior Citizen’s Credit

An estate may claim this credit if the decedent was 65 years or older as of the date of death (limit \$50 per return).

Line 45 – Child and Dependent Care Credit

An estate may claim this credit if the decedent qualifies for the federal child and dependent care credit. See the Ohio IT 1040 booklet for other limitations and calculations.

Line 46 – Ohio Political Contributions Credit

An estate may claim this credit for contributions made to the campaign committee of a statewide office. See the Ohio IT 1040 booklet for more information and for calculations.

Line 47 – Total Schedule B Credits for Estates

Add lines 43 through 46 and enter the amount on line 47 and on line 9.

Schedule C – Estate Ohio Resident Credit

Line 48 – Portion Taxed by Another State

Resident estates should enter the portion of Ohio taxable income (line 3) that was subjected to tax in another state or in the District of Columbia, plus or minus any related adjustments in Schedule A. **Limitation:** Do not include income for which the estate has directly or indirectly deducted, in computing federal taxable income, any state income tax paid on that income.

Line 49 – Ohio Taxable Income

Enter the amount from line 3.

Line 50

Divide the amount on line 48 by the amount on line 49 and write the percentage in the box provided. Multiply the percentage by the amount of tax on line 8 reduced by any amount shown on line 9, and enter the result on line 50.

Line 51 – Taxes Paid to Other States

Enter the amount of taxes, less all related, nonrefundable credits, other than withholding, estimated payments and carryforwards from previous years, paid to other states or the District of Columbia. **Limitation:** Do not include income for which the estate has directly or indirectly deducted, in computing federal taxable income, any state income tax paid on that income.

Line 52 – Ohio Resident Tax Credit for Estates

Enter the smaller of lines 50 and 51. This is the Ohio resident credit for estates.

Schedule D – Estate Nonresident Credit

Line 53 – Portion Not Earned in Ohio

Nonresident estates should enter the portion of Ohio taxable income on line 3 that is not apportioned or allocated to Ohio pursuant to R.C. 5747.20-5747.231. Use Ohio form IT 2023 and attach to Ohio form IT 1041.

Line 55 – Nonresident Credit

Divide the amount on line 53 by the amount on line 54. Multiply the percentage by the amount of tax on line 8 reduced by the amount shown on line 9. This amount is the estate’s nonresident credit.

Schedule E – Nonrefundable Business Credits

To claim the nonrefundable business credit, use Schedule E, which is not contained in this booklet. You may obtain Schedule E from our Web site at tax.ohio.gov.

Schedule F – Allocated Qualifying Trust Amounts for Trusts Recognizing Gains or Losses from the Disposition of Closely Held Investments

The qualifying trust amount means capital gains and losses from the sale, exchange or other disposition of equity or ownership interest in, or debt obligations of, a closely held qualifying investee to the extent included in the trust’s Ohio taxable income, but only (i) if the location of the physical assets of the investee is available to the trust and (ii) the investment in the investee is (or was) a closely held investment. See R.C. 5747.01(BB)(2) and 5747.011.

If the location of the qualifying investee’s assets is not available to the trust, then there is no qualifying trust amount. Generally, the location of the physical assets of a closely held corporation (the qualifying investee) is available to the trust. The portion of the trust’s Ohio taxable income represented by the qualifying trust amount will be allocated to Ohio by multiplying the capital gains and losses by the Ohio percentage as described below.

The Ohio percentage is a fraction whose numerator is the net book value of the physical qualifying investee’s assets in Ohio. The denominator of the Ohio percentage is the net book value of the qualifying investee’s physical assets everywhere. This method of allocating gains and losses to Ohio is similar to the method used for corporation franchise tax purposes with respect to allocating gains and losses from the sale or other disposition of intangible property that may produce dividend income.

Special Notes:

- (1) If the qualifying investee is a member of a qualifying controlled group, as defined in R.C. 5733.04(M), then special rules apply for purposes of calculating the Ohio ratio. See R.C. 5747.01(BB)(5).
- (2) A gain or loss will be a “qualifying trust amount” only if the investment in the qualifying investee constitutes a closely held investment. Most gains and losses will **not** be qualifying trusts amounts. See R.C. 5747.01(BB)(2) and 5747.011.
- (3) If qualifying trust amount capital gains/losses were recognized on account of the sale, exchange or other disposition of more than

one investment, then the fiduciary must make a separate calculation for each gain/loss.

Line 56 – Trust’s Portion of Capital Gains/Losses Recognized

Enter the trust’s portion of capital gains/losses from the sales, exchange or other disposition of equity or ownership interest in, or debt obligations of, a closely held qualifying investee to the extent included in Ohio taxable income (line 3) if the location of the physical assets of a closely held qualifying investee is available. If the investee is not closely held or if the location of the physical assets of the closely held investor is not available, then enter -0-. See R.C. 5747.01(BB)(5).

Line 57 – Ohio Percentage of Closely Held Investee’s Physical Assets

Divide the book value of the physical assets of the closely held qualifying investee in Ohio by the book value of the physical assets of the closely held investee located everywhere and enter the percentage derived (carried to six decimal places) on line 57.

Line 58 – Allocated Qualifying Trust Amount

Multiply the amount on line 56 by the percentage on line 57. Enter here and on line 4. Enter negative amounts in parentheses.

Schedule G – Apportioned Income for Trusts

Line 59 – Business Income and Qualifying Investment Income

Enter the trust’s portion of Ohio taxable income (line 3) not included on line 56 to the extent such income is either of the following:

- Business income/loss (see R.C. 5747.01(B)), OR
- Qualifying investment income (see R.C. 5747.012).

Line 60 – Ohio Apportionment Ratio

Enter the apportionment ratio from line 75 carried to six decimal places.

Line 61 – Apportioned Income for Trusts

Multiply the amount on line 59 by the apportionment ratio on line 60. Enter here and on line 5. Enter negative amounts in parentheses.

Schedule H – Allocated Nonbusiness Income for Trusts

Line 62 – Allocation of Income for Resident Trusts

Resident trusts must enter the trust’s Ohio taxable income (line 3) not reported on lines 56 or 59.

Line 63 – Allocation of Income for Nonresident Trusts

Nonresident trusts must enter the following types of nonbusiness income to the extent included in the trust’s Ohio taxable income (line 3) and not reported on line 56 or 59:

- Capital gains or losses from the sale, exchange or transfer of Ohio real property and/or Ohio-based tangible personal property;
- Rents and royalties from Ohio real property and/or tangible personal property used in Ohio;
- Patents and copyright royalties used by the payor in Ohio;
- Ohio Lottery Commission winnings and gains and/or losses from the sale or transfer of such winnings.

- Pursuant to division (BB)(4)(c)(ii) of R.C. 5747.01, if (i) a nonresident trust sells, exchanges or otherwise disposes of its direct or indirect interest in a closely held business having property, payroll and/or sales in Ohio, (ii) the gain (loss) recognized from the sales, exchange or other disposition is not a “qualifying trust amount” as defined in division (BB)(2) of R.C. 5747.01 and (iii) that gain (loss) is not “modified business income” as defined in division (BB)(1) of R.C. 5747.01, then the nonresident trust must situs to Ohio a portion of that gain (loss). For additional information see R.C. 5747.212.

Line 64 – Allocated Nonbusiness Income

Add the amount of nonbusiness income shown on lines 62 and 63. Enter here and on line 6.

Schedule I – Tax Credit for Nonresident Trusts

Line 65 – Portion Taxed by Another State

Enter the amount of the nonresident trust’s allocated nonbusiness income (line 63) subjected to tax by another state or in the District of Columbia.

Line 66 – Ohio Tax

Enter the amount of tax from line 8.

Line 67 – Modified Ohio Taxable Income

Enter the amount of modified Ohio taxable income from line 7.

Line 68 – Average Effective Tax Rate

Divide the amount on line 66 by the amount on line 67. This is the average effective tax rate.

Line 69

Multiply the amount on line 65 by the average effective tax rate shown on line 68.

Line 70 – Tax Paid to Another State

Enter the amount of tax paid to another state or the District of Columbia on the nonresident trust’s allocated nonbusiness income.

Line 71 – Nonresident Trust Tax Credit

Enter the smaller of the amounts on lines 69 and 70. This is the nonresident trust’s tax credit. Enter the amount on line 71 on Ohio form IT 1041, line 10.

Example: The Pat Smith Trust, a nonresident trust, has no qualifying trust amount and no business income. The nonresident trust had modified Ohio taxable income of \$75,000 from dividends. The tax shown on line 8 on the Ohio form IT 1041 is \$3,158. Another state imposed on the trust an income tax of \$1,100 based upon taxable income of \$25,000, which the trust reported to that state. The trustee would calculate the nonresident tax credit as follows:

Line 65	\$25,000
Line 66	\$3,158
Line 67	\$75,000
Line 68	.0421
Line 69	\$1,053
Line 70	\$1,100
Line 71	\$1,053

Ohio Income Tax Table

To be used for calculating the tax for line 8 for the taxable year beginning in 2010.

Amount on Line 3 (Estates) or Line 7 (Trusts)	2010 OhioTax (to Line 8)				
\$0 - \$5,050			0.618%	of Ohio taxable Income	
\$ 5,050 - \$ 10,100	\$31.21	plus	1.236%	of the amount in excess of	\$5,050
\$ 10,100 - \$ 15,150	\$93.63	plus	2.473%	of the amount in excess of	\$10,100
\$ 15,150 - \$ 20,200	\$218.52	plus	3.091%	of the amount in excess of	\$15,150
\$ 20,200 - \$ 40,350	\$374.62	plus	3.708%	of the amount in excess of	\$20,200
\$ 40,350 - \$ 80,700	\$1,121.78	plus	4.327%	of the amount in excess of	\$40,350
\$ 80,700 - \$100,900	\$2,867.72	plus	4.945%	of the amount in excess of	\$80,700
\$100,900 - \$201,800	\$3,866.61	plus	5.741%	of the amount in excess of	\$100,900
More than \$201,800	\$9,659.28	plus	6.240%	of the amount in excess of	\$201,800

For other taxable years, please see our Web site at tax.ohio.gov.

Important Notice

If at the date of death the decedent was domiciled in a school district imposing a school district income tax on estates and if the fiduciary of the estate is required to file Ohio form IT 1041, then the fiduciary of the estate must also file for that taxable year a School District Estate Income Tax Return, Ohio form SD 100E.

For assistance and/or forms, please see our Web site at tax.ohio.gov or contact the Ohio School District Income Tax Office, P.O. Box 182389, Columbus, OH 43218-2389.

Apportionment Ratio for Modified Business Income and Qualified Investment Income in Schedule G for Trusts Only (Lines 72-74)

Apportionment Factors Ohio Revised Code Section (R.C.) 5747.013(B)

Note: When calculating the Ohio income tax, a trust that has invested in a pass-through entity must apply the “aggregate” (conduit) theory of taxation. That is, the character of all income and deductions (and adjustments to income and deductions) realized by an S corporation or a partnership or a limited liability company (treated as a partnership for federal income tax purposes) in which the trust has invested retains that character for purposes of the withholding tax and the entity tax when recognized by the qualifying pass-through entity. Furthermore, the trust must include in its apportionment ratio its proportionate share of each lower-tiered pass-through entity’s property, payroll and sales. See R.C. 5747.231.

If the apportioned **income** from business income/losses and from qualifying investment income was received from more than one entity whose businesses are not unitary with each other, then the trust must make a separate apportionment calculation for each business.

Property Factor (Line 72)

Please see note above.

The property factor is a fraction whose numerator is the average value of the trust’s includible real and tangible personal property owned or rented, and used in the trade or business in Ohio during the taxable year, and the denominator of which is the average value of all the trust’s includible real and tangible personal property owned or rented, and used in the trade or business everywhere during such year.

Property owned is valued at its original cost average value. Average value is determined by adding the cost values at the beginning and at the end of the taxable year and dividing the total by two. The tax commissioner may require the use of monthly values during the taxable year if such values more reasonably reflect the average value of the entity’s property.

In determining average value, **exclude** from column 1 (within Ohio) and from column 2 (total everywhere) the following:

- Construction in progress.
- The original cost of property within Ohio with respect to which the state of Ohio has issued an air pollution, noise pollution or an industrial water pollution control certificate. See division (B) (1) of R.C. 5747.013.
- The original cost of real property and tangible property (and in the case of property that the trust is renting from others, eight times the net annual rental rate), which is used exclusively during the taxable year for qualified research as defined in division (A)(2) of R.C. 5747.13.
- Property that the trust owns but leases to a lessee to be used in the lessee’s trade or business.

Line 72(a), Column 1 – Property Owned – Within Ohio

Enter the average value of the real property and tangible personal property, including leasehold improvements, owned and used in the trade or business in Ohio during the taxable year.

Line 72(a), Column 2 – Property Owned – Total Everywhere

Enter the average value of all the real property and tangible personal property, including leasehold improvements, owned and used in the trade or business everywhere during the taxable year.

Line 72(b) – Property Rented

Enter the value of the real property and tangible personal property rented and used in the trade or business in Ohio (column 1) and everywhere (column 2) during the taxable year and not excluded above. Property rented is valued at eight times the annual rental rate (annual rental expense less subrental receipts).

Line 72(c), Columns 1 and 2 – Property Total – Within Ohio and Total Everywhere

Add lines 72(a) and 72(b) for column 1, (within Ohio) and column 2 (total everywhere).

Line 72(c), Column 3 – Property Ratio

Enter the ratio of property within Ohio to total everywhere by dividing column 1 by column 2.

Line 72(c), Column 5 – Weighted Property Ratio

Multiply the property ratio on line 72(c), column 3 by the property factor weighting of 20%.

Payroll Factor (Line 73)

Please see note at left.

The payroll factor is a fraction, the numerator of which is the total compensation paid in Ohio during the taxable year by the trust, and the denominator of which is the total compensation paid both within and without Ohio during the taxable year by the trust. As used below, the term “compensation” means any form of remuneration paid to an employee for personal services. Do **not** include in column 1 (within Ohio) or in column 2 (total everywhere) the following:

- Guaranteed payments made to partners.
- Compensation paid in Ohio to employees who are primarily engaged in qualified research.
- Compensation that an S corporation, in which the trust has an equity interest, paid to any shareholder if the shareholder directly or indirectly owned at least 20% of the S corporation at any time during the year. R.C. 5733.40(A)(7).

Line 73, Column 1 – Payroll Within Ohio

Enter the total amount of the compensation paid in Ohio during the taxable year. Compensation is paid in Ohio if any of the following apply:

- The recipient’s service is performed entirely within Ohio; OR
- The recipient’s service is performed both within and without Ohio, but the service performed without Ohio is incidental to the recipient’s service within Ohio; OR
- Some of the recipient’s service is performed within Ohio and either the recipient’s base of operations, or if there is no base of operations, the place from which the recipient’s service is directed or controlled is within Ohio, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient’s residence is in Ohio.

Compensation is paid in Ohio to any employee of a common or contract motor carrier corporation who performs his regularly assigned duties on a motor vehicle in more than one state in the same ratio by which the mileage traveled by such employee within Ohio bears to the total mileage traveled by such employee everywhere during the taxable year. The statutorily required mileage ratio applies only to contract or common carriers. Thus, without approval by the tax commissioner a manufacturer or merchant who operates its own fleet of delivery trucks may not situs driver payroll based upon the ratio of miles traveled in Ohio to miles traveled everywhere. See *Cooper Tire and Rubber Co. v. Limbach* (1994), 70 Ohio St. 3d 347.

Line 73, Column 2 – Payroll Total – Everywhere

Enter the total amount of the compensation paid everywhere during the taxable year.

Line 73, Column 3 – Payroll Ratio

Enter the ratio of payroll within Ohio to total everywhere by dividing column 1 by column 2.

Line 73, Column 5 – Weighted Payroll Ratio

Multiply the property ratio on line 73, column 3 by the payroll factor weighting of 20%.

Sales Factor (Line 74)

Please see note on page 12.

The sales factor is a fraction whose numerator is composed of the trust's total sales in Ohio during the taxable year and whose denominator is the sum of the trust's total sales everywhere during the taxable year.

Exclude the following receipts from both the numerator and the denominator of the sales factor even if the receipts arise from transactions, activities and sources in the regular course of a trade or business:

- Interest or similar amounts received for the use of, or for the forbearance of the use of, money.
- Dividends.
- Receipts and any related gains and losses from the sale or other disposal of capital assets or of assets described in I.R.C. 1231.
- Receipts from (a) an at-least-80%-owned public utility other than an electric company, combined electric company, or telephone company, (b) an at-least-80%-owned insurance company or (c) an at-least-25%-owned financial institution.

Line 74, Column 1 – Sales Within Ohio

Enter the total of gross receipts from sales, not otherwise excludable from the numerator and the denominator of the sales factor, to the extent the includible gross receipts are from sales in Ohio. Sales in Ohio include the following:

- Receipts from sales of tangible personal property inventory, less returns and allowances, received by the purchaser in Ohio. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed is considered as the place at which such property is received by the purchaser. Direct delivery in Ohio, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in Ohio, and direct delivery outside Ohio to a person or firm designated by a purchaser does not constitute delivery to the purchaser in Ohio, regardless of where title passes or other conditions of sale.

Customer pick-up sales are situsable to the final destination after all transportation (including customer transportation) has been completed. See *Dupps Co. v. Lindley* (1980), 62 Ohio St. 2d 305.

Revenue from servicing, processing or modifying tangible personal property is situsable to the destination state as a sale of tangible personal property (rather than situsable as service revenue). See *Custom Deco, Inc. v. Limbach*, BTA Case No. 86-C-1024, June 2, 1989.

- Receipts from sales of real property inventory in Ohio.
- Receipt from sales, other than sales of inventory, if:

The income-producing activity is performed entirely within Ohio; OR

The income-producing activity is performed both within and without Ohio and a greater proportion of the income-producing activity is performed within Ohio than in any other state, based on cost of performance. If the income-producing activity involves the performance of personal services both within and without Ohio, the services performed in each state will constitute a separate income-producing activity. In such case the gross receipts for the performance of services attributable to Ohio shall be measured by the ratio that the time spent in performing such services in Ohio bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligations that gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligations (for example, time expended in negotiating the contract) is excluded from the computation.

The term "income-producing activity" means, with respect to each separate item of income, the transaction and activity directly engaged in by the taxpayer in the regular course of its trade or business for the purpose of obtaining gains or profits. Such activity does not include transactions and activities performed on behalf of the taxpayer, such as those conducted on its behalf by an independent contractor. See section 17 of the Uniform Division of Income for Tax Purposes Act, drafted by the National Conference of Commissioners on Uniform State Laws, July 8-13, 1957.

The term "cost of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the taxpayer's trade or business. For purposes of this term receipts from rental property are situsable to this state if the property (i) is used entirely in this state or (ii) is used more in this state than in any other state. See section 17 of the Uniform Division of Income for Tax Purposes Act, drafted by the National Conference of Commissioners on Uniform State Laws, July 8-13, 1957.

Line 74, Column 2 – Sales Total – Everywhere

Enter the total of such includible gross receipts, less returns and allowances, from sales everywhere.

Line 74, Column 3 – Sales Ratio

Enter the ratio of sales within Ohio to total everywhere by dividing column 1 by column 2.

Line 74, Column 5 – Weighted Sales Ratio

Multiply the sales ratio on line 74, column 3 by the sales factor weighting of 60%.

Matching Expense and Loss Amounts and Distribution Deductions Against Income and Gain

The fiduciary should directly match against items of income and gain (and against excluded income and gain, if any) those expenses and losses that are directly related to the items of income or gain. With respect to those expenses and distributions which the fiduciary cannot directly match to items of income and gain, the fiduciary should proportionately assign those expenses and distributions. Generally, the basis for assigning expenses, losses and distributions will be the relative profit for each activity.

Example #1 (this example illustrates the assigning of direct distributions):

The trust document directs that the fiduciary distribute to Lee, a beneficiary, 75% of the yearly profit from rental activities. The rental activity profit constitutes business income. For the year the rental profit was \$100,000, there was no other income and the only distributions was \$75,000 to Lee.

The fiduciary must reduce the trust's rental profit by the distribution deduction attributable to the rental profit (in this example, 75% of the rental activity profit). So the amount to be shown on Schedule G, line 59, will be \$25,000.

Example #2 (this example illustrates the assigning of (i) direct expenses, losses and distributions and (ii) indirect expenses, losses and distributions):

Gross rent	\$530,000
Dividend income	200,000
Interest Income	41,000
Net capital gain (stocks and bonds)	60,000
Rental property depreciation expense	- 100,000
Rental property real estate taxes and related payroll expenses	- 25,000
Attorney fees (lease preparation)	- 5,000
Investment advisor fees (stocks & bonds)	- 1,000
Fiduciary fees (based upon profit)	- 10,000
Distribution deduction (discretionary)	- 60,000
Taxable income per IRS form 1041	<u>\$ 630,000</u>

Other information: (i) the rental profit constitutes business income, (ii) for purposes of this example, all other income and gain constitute nonbusiness income, (iii) there are no "Schedule A" Ohio adjustments (so Ohio taxable income is the same as taxable income per IRS form 1041), and (iv) there are no items of closely held investee gains (losses) and no items of qualifying investment income (see Schedules F and G, respectively).

Matching of Directly Related Expenses and Losses

Rental Activity

Rents	\$ 530,000
Less: Depreciation expense	- 100,000
Real estate taxes and payroll expenses	- 25,000
Attorney fees	- 5,000
Tentative apportionable profit from rental activities (business income)	<u>\$ 400,000</u>

Portfolio Income

Dividends, interest and net capital gains	\$ 301,000
Less: Investment advisor fees	- 1,000
Tentative profit from "portfolio" income (nonbusiness income)	<u>\$ 300,000</u>

Matching of Nondirectly Related Expenses and Losses and Distribution Deduction Not Directly Related to Specific Items of Income and Gain

In this example the total of such expenses, losses and distributions is \$70,000: fiduciary fees of \$10,000 and distribution deduction of \$60,000.

Portion of \$70,000 assigned to the rental activity:

$$\frac{\$400,000}{\$400,000 + \$300,000} \times \$70,000 = \underline{\$ 40,000}$$

Portion of \$70,000 assigned to the portfolio income:

$$\frac{\$300,000}{\$400,000 + \$300,000} \times \$70,000 = \underline{\$ 30,000}$$

Amount of apportionable business income to be reported on Schedule G, line 59:

$$\$400,000 - \$40,000 = \underline{\$ 360,000}$$

Amount of allocable nonbusiness income to be reported on Schedule H, line 62:

$$\$300,000 - \$30,000 = \underline{\$ 270,000}$$

Ohio taxable income	<u>\$ 630,000</u>
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Taxpayer Assistance

By Internet



Ohio Department of Taxation Web Site – tax.ohio.gov

E-mail Us	Instructions
Frequently Asked Questions	Refund Status
Information Releases	Tax Forms

By Phone



Toll-Free Telephone Numbers

Toll-Free 24-Hour Refund Hotline	1-800-282-1784
Toll-Free Form Requests	1-800-282-1782
Toll-Free Tax Questions	1-800-282-1780

Written



Ohio Department of Taxation Taxpayer Services Mailing Address

Ohio Department of Taxation
Taxpayer Services Division
P.O. Box 182382
Columbus, Ohio 43218-2382

Walk-in



Ohio Department of Taxation Taxpayer Service Locations

Taxpayer Service Center Hours
Office hours: 8:00 a.m. – 5:00 p.m.
Monday through Friday

See location listing at right.

Ohio Department of Taxation Taxpayer Service Centers

Akron Taxpayer Service Center
161 S. High St., Suite 501
Akron, OH 44308-1600

Cincinnati Taxpayer Service Center
900 Dalton Ave. at W. 8th St.
Cincinnati, OH 45203-1171

Cleveland Taxpayer Service Center
615 W. Superior Ave.
Fifth Floor, Suite 570
Cleveland, OH 44113-1891

Columbus Taxpayer Service Center
4485 Northland Ridge Blvd., 1st Floor
Columbus, OH 43229-6596

Dayton Taxpayer Service Center
Centre City Offices
40 S. Main St., Suite 500
Dayton, OH 45402-2068

Toledo Taxpayer Service Center
One Government Center, Suite 1400
Toledo, OH 43604-2232

Youngstown Taxpayer Service Center
242 Federal Plaza West, Suite 402
Youngstown, OH 44503-1294

Zanesville Taxpayer Service Center
601 Underwood St.
Zanesville, OH 43701-3786

For the deaf, hearing-impaired or speech-impaired who use TTY or TDD only: Please contact the Ohio Relay Service at 1-800-750-0750 and give the communication assistant the Ohio Department of Taxation phone number that you wish to contact.

Volunteer Income Tax Assistance Program (VITA) and Tax Counseling for the Elderly (TCE): These programs help older, disabled, low-income and non-English-speaking people fill in their state and federal returns. For locations in your area, call the IRS at 1-800-829-1040. If you received an Ohio and/or federal income tax package in the mail, take them with you when you go for assistance.