

Miscellaneous Federal Tax Adjustments

Form IT 1041, lines 27 and 35

Calendar year taxpayers must add back the charitable contribution deduction, if any, relating to January, 2005 contributions to the Indian Ocean tsunami relief effort and claimed on the 2004 federal income tax return.

Reason: The Ohio General Assembly enacted amendments to Ohio Revised Code sections 5747.01 and 5733.04 which Governor Taft signed on December 30, 2004. The amendments became effective on that date (see Substitute House Bill 362, 125th General Assembly). Because of these amendments, all changes to the Internal Revenue Code enacted on or before December 30, 2004 apply to calendar year taxpayers filing the Ohio individual & fiduciary income tax, the Ohio pass-through entity tax, and the Ohio franchise tax (the web instructions for the 2005 form FT 1120 provide additional information for fiscal year corporate taxpayers). As a result, calendar year taxpayers are not required to reverse the effects of any Internal Revenue Code changes enacted by December 30, 2004.

Please note that the federal law allowing calendar year businesses to deduct in taxable year 2004 their January, 2005 contributions to the Indian Ocean tsunami relief effort was enacted subsequent to December 30, 2004. Since the federal law allowing this deduction was enacted after the December 30, 2004 date on which the applicable Ohio tax law was last amended, taxpayers must compute Ohio taxable income for their taxable year ending in 2004 as if that federal law had never been enacted. Thus, each calendar year business taxpayer which made any January, 2005 contributions to the Indian Ocean tsunami relief effort and which claimed those contributions as a deduction on its 2004 federal income tax return must add back on its 2004 Ohio tax return the amount of such deduction.

Please note that the Ohio tax add-back and deduction for IRC sections 168(k) and the 179 depreciation adjustments remain in effect in accordance with Ohio Revised Code sections 5747.01(A)(20), 5747.01(A)(21), 5733.04(I)(17), and 5733.04(I)(18).

For more information see the Department's December 2004 individual income tax information release entitled, *Income and Franchise Tax Updates* available through our website at www.tax.ohio.gov.



2004

Ohio

Fiduciary Income Tax Return

IT 1041

Instructions

General Instructions

Who Does Not Have to File a Return

We mailed the 2004 form IT 1041 to those fiduciaries who filed a 2003 fiduciary trust return with either the state of Ohio or the Internal Revenue Service.

You are not required to file a 2004 form IT 1041 with the state of Ohio if:

- The fiduciary's 2004 IRS form 1041 shows no taxable income or has a negative taxable income (e.g., simple trusts and most estate tax returns); AND
- There are no Ohio adjustments that would result in Ohio taxable income; AND
- If the taxpayer is a trust, the trust is not an electing small business trust.

In addition, the following types of trusts are specifically excluded from filing 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

Who Must File a Return

All **estates** residing in Ohio or earning income in Ohio must file an Ohio Fiduciary Income Tax Return (form IT 1041) for the taxable year.

Ohio law, Amended Substitute Senate Bill No. 261, 124th General Assembly, imposes for taxable years beginning in **2002, 2003 and 2004** an income tax on most **trusts**, which are not excluded above and which meet any one or more of the following requirements:

- The trust resides in Ohio, or
- The trust earns or receives Ohio source income, 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.

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 9.

Income Taxed to the Estate

The income tax imposed on the fiduciary shall apply to the estate's Ohio taxable income. The tax is reduced by the Schedule B credits; the Schedule C resident credit; the Schedule D nonresident credits; and the allowable Schedule E business credits.

If the executor and trustee make the Internal Revenue Code (I.R.C.)

section 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 resident credit and allowable Schedule E business credits.

Most Common Situations for Trusts

General rules:

- A nonresident trust investing only in savings accounts, certificates of deposit, publicly traded stocks, bonds, commercial paper and/or mutual funds generally will not owe any Ohio income tax and should not file 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 modifications noted below.

Definition of "Resident" Trust

Ohio Revised Code (O.R.C.) section 5747.01(I)(3) defines "resident" for purposes of Ohio's income tax on trusts.

Testamentary trusts reside in Ohio if the decedent at the time of death was domiciled in Ohio for Ohio estate tax purposes (see O.R.C. chapter 5731).

If the trust is an **inter vivos irrevocable trust**, the trust generally resides in Ohio if (i) at least one "qualifying beneficiary" (see O.R.C. section 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 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 O.R.C. section 5747.01.

Calculation of Modified Ohio Taxable Income for Trusts

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 O.R.C. section 5747.01 is necessary to calculate the trust's Ohio taxable income:

- First, compute federal taxable income as defined and used in the I.R.C.. Note that federal taxable income is net of the income distribution deduction;
- Second, make the adjustments (additions and subtractions) allowable to estates under division (S) of O.R.C. section 5747.01. However, unlike estates, trusts do not have to add back the amount of the exemption deduction allowable for federal income tax purposes;
- Third, deduct any amount that the trust is required to report as farm income on the trust's federal income tax return, but only if the assets of the trust include at least 10 acres of land satisfying the definition of "land devoted exclusively to agricultural use," under O.R.C. section 5713.30, regardless of whether the land is valued for tax purposes as such under O.R.C. sections 5713.30 through and including 5713.38.

Once the trust's Ohio taxable income has been calculated, the trust's modified Ohio taxable income can be determined. Modified Ohio taxable income is the sum of the following four amounts:

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

Due Date

The fiduciary income return is required to be filed on or before the 15th day of the fourth month following the close of the taxable year.

Extensions to File

If the trust or estate needs more time to file the Ohio income tax return, the fiduciary must first obtain an extension of time to file the federal fiduciary tax return. If the trust 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 attach a copy of the federal extension to the Ohio return. If the federal extension was obtained electronically, then the trust or estate must provide the federal confirmation number for the extension. Extension payments should be made on the year 2004 form IT 1041ES included in the back of this booklet.

Caution: An extension of time to file does not give the estate or trust an extension of time to pay. Please see "Penalties and Interest" on page 3.

Allocated Qualifying Trust Amount

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 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.

If the location of the qualifying investee's assets is not available to the trust, then there is no qualifying trust amount.

Commonly, 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 ratio as described below.

The Ohio ratio is a fraction whose numerator is the net book value of the physical qualifying investee's assets in Ohio. The denominator of the Ohio ratio 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 O.R.C. section 5733.04(M), then special rules apply for purposes of calculating the Ohio ratio. See O.R.C. section 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 O.R.C. sections 5747.01(BB)(2)(b) and 5747.011.

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. Please see page 10.

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 61).

Credits 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. **Note:** The political contributions credit does not apply to trusts. Schedule E is not contained in this booklet. To obtain a copy of Schedule E, visit our Web site at www.tax.ohio.gov.

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

Because of the use of the allocation and apportionment formulas to calculate the trust's modified Ohio taxable income, a trust is not eligible for the nonresident credit. However, because a resident trust must allocate to this state the trust's entire portion of the trust's

modified nonbusiness income included in Ohio taxable income, Ohio law does allow a resident 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 O.R.C. section 5747.02.

You can find more information on the Department of Taxation's Web site at www.tax.ohio.gov (click on "Releases").

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 the trust or estate obtained a federal extension of time to file **and** if 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. To make an extension payment, please use the year 2004 form IT 1041ES included in the back of this booklet.

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% for 2004 and is 5% for 2005.

Amended Returns

You may make any change or correction to your already filed return by filing another Fiduciary Income Tax Return 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 get form IT 1041 from our Web site at www.tax.ohio.gov. If the fiduciary amends the Federal Fiduciary Income Tax Return or if the fiduciary is audited by the Internal Revenue Service, the fiduciary must file an amended form IT 1041 within 60 days of the final determination of the federal change.

Caution: The Internal Revenue Service 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.

Underpayment of Estimated Tax 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 2004 Ohio tax (IT 1041, line 11); and
- 100% of your 2003 Ohio tax (IT 1041, line 11).

If the estate or trust owes an interest penalty, the fiduciary must complete form IT 2210 and show the interest penalty on line 12 of 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 either of the following conditions apply and if the fiduciary completes form IT 2210 and attaches it to the return:

- The estate or trust income varied during the year and the fiduciary uses the annualized income installment method on form IT 2210 to compute the quarterly estimated payments.
- The estate or trust had Ohio income tax withheld (e.g., Ohio lottery withholdings) and the fiduciary elects to show when the tax was actually withheld.

Note: You can obtain form IT 2210 from our Web site at www.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 Department of Taxation follows I.R.S. 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: O.R.C. sections 5703.262(B) and 5747.08(F).

Instructions for Form IT 1041

Line 1 – Federal Taxable Income

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

Line 2 – Net Adjustments from Schedule A

Schedule A (lines 21 to 40) on the back of the return has a list of the additions and deductions to your federal taxable income. Turn to pages 5 to 7 and read the additions required and the deductions to which you may be entitled.

- 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.

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 56. If the capital gains/losses were recognized on account of the sale, exchange or other disposition of more than one investment, then you must make a separate calculation for each gain/loss. Enter zero 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 59. Enter zero 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 62.

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

For trusts, add the amounts reported on lines 4, 5 and 6 and enter the total on line 7, but not less than zero. This is the trust's amount of the modified Ohio taxable income.

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

Use the tax tables found on page 9 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 45 of form IT 1041.

Line 10 – Resident/Nonresident from Schedules C, D and I and Schedule E Business Credits

Enter the total amount of credits from Schedules C, D, E and I. You may obtain a copy of Schedule E from our Web site at www.tax.ohio.gov. **Note:** Resident estates and resident trusts have different calculations for the resident credit (Schedules C and I). Nonresident estates are allowed a nonresident credit (Schedule D).

Both estates and trusts may be entitled to claim one or more non-refundable business credits listed in Schedule E of form IT 1040, with one exception: Trusts cannot claim the credit for contributions to candidates for Ohio statewide office or for the General Assembly.

Multiply the total amount of nonrefundable credit from Schedule E times the estate's or trust's retained percentage of income to calculate the amount of nonrefundable credits 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 form IT 1041 75% of the Schedule E nonrefundable credit, and the beneficiaries would be able to claim cumulatively on their forms IT 1040 the remaining 25% of the Schedule E nonrefundable credit.

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

You may 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.

If neither exception applies, use Ohio form IT 2210 as a guide to help you compute the interest penalty. Enter the interest penalty on line 12. Please see "Lowering Your Interest Penalty" on page 3 for more information.

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 – Previous Payments

Enter the amount of any estimated payments made by the trust or estate on form IT 1041ES, including any extension payments.

If a trust received lottery winnings subject to the withholding of Ohio income tax or if the Ohio income tax on the lottery winnings was paid by the transferor on behalf of the trust or estate, the trust or estate may claim the withholding tax on this line. Attach a statement indicating the source of the withholding payment.

Line 15 – Refundable Business Credits

Business Jobs Credit: If the Ohio Tax Credit Authority of the Ohio Department of Development granted the trust or estate a “new jobs credit,” then enter the amount of credit 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 form IT 4708 (Composite Income Tax Return for Pass-Through Entities) or on form IT 1140 (Withholding Tax Return for Pass-Through Entity Distributive Shares and Certain Trust Distributions), you should enter the amount of tax paid on behalf of the trust or estate. Investors that claim this credit **must attach federal K-1's** reflecting the amount of Ohio tax 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 entity; and the entity's federal employer identification number (FEIN). Enter the total of the refundable new jobs credit and the refundable pass-through entity credit on line 15. Generally, estates and trusts cannot “pass through” any refundable credit to beneficiaries.

Line 17 – Amount You Owe

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

Line 18 – 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 19 – Credit Carryover to 2005

Enter the portion of your overpayment that you want to credit toward next year's income taxes.

Note: At the time this booklet was printed the trust tax was scheduled to expire for taxable years beginning in 2005. If the expiration date is extended, our Web site at www.tax.ohio.gov will so indicate.

Line 20 – Refund

Subtract line 19 from line 18. This is the amount you want refunded.

Schedule A – Fiduciary's Share of Adjustments to Federal Taxable Income

Additions

The following apply to both trusts and estates except where noted.

Line 21 – 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 22 – Pass-Through Entity Add-Back

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

Line 23 – ESBT Income

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

- (i) such income is not included in the trust's federal taxable income; AND
- (ii) such income is not included in any individual's federal adjusted gross income.

Line 24 – 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 were deducted in calculating federal taxable income.

Line 25 – Recovery 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 the reimbursement was not included in federal taxable income for 2004.

Line 26 – Depreciation Adjustments

In determining Ohio taxable income a taxpayer that for federal income tax purposes claims Internal Revenue Code (I.R.C.) section 168(k) bonus depreciation must add back five-sixths of that bonus depreciation claimed for the taxable year.

The taxpayer must also add back five-sixths of the qualifying section 179 depreciation expense. “Qualifying section 179 depreciation expense” is the difference between (i) the amount of depreciation expenses directly or indirectly allowed to the taxpayer under I.R.C. section 179 and (ii) the amount of depreciation expense directly or indirectly allowed to the taxpayer under I.R.C. section 179 as that section existed on December 31, 2002. In each of the five subsequent taxable years the taxpayer can deduct one-fifth of the amounts previously added back (see instructions for line 37).

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 O.R.C. section 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. section 168(k) bonus depreciation and/or I.R.C. section 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. section 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 regarding this adjustment, see the department’s July 31, 2002 information release entitled “Recently Enacted Ohio Legislation Affects Depreciation Deductions for Taxable Years Ending in 2002 and Thereafter” by visiting www.tax.ohio.gov and clicking on “Releases.”

Line 27 – Personal Exemption (Estates Only) and Miscellaneous Federal Tax Adjustments

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

At the time this instruction booklet was sent for printing, there were changes made by Congress to the I.R.C. that may impact the computation of Ohio income tax. If applicable, you must enter any necessary adjustments on this line. For more information, see our Web site at www.tax.ohio.gov.

Line 28 – Expenses Claimed on Ohio Estate Return (Estates Only)

Enter on this line expenses deducted on both the Federal Fiduciary Income Tax Return (form 1041) and the Ohio Estate Tax Return (form 2). However, enter zero if this return is the estate’s final return.

Line 29 – Total Additions

Enter the totals of lines 21 through 28 on line 29.

Deductions

The following apply to both trusts and estates except where noted. Deduct the amount described below only to the extent not already deducted or excluded from federal taxable income.

Line 30 – 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 31 – 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 32 – Losses From an ESBT

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

- (i) such loss has not been directly or indirectly deducted in computing the trust estate’s federal taxable income; AND
- (ii) such loss is not deducted by any other person.

Line 33 – 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 tax credit or work opportunity tax credits.

Line 34 – 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.

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.

Line 35 – Refund or Reimbursements of a Prior Year Deduction and Miscellaneous Federal 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 31.

At the time this instruction booklet was sent for printing, there were changes made by Congress to the I.R.C. that may impact the computation of Ohio income tax. If applicable, you must enter any necessary adjustments on this line. For more information, see our Web site at www.tax.ohio.gov.

Line 36 – 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 O.R.C. section 5713.30.

Line 37 – One-Fifth Bonus Depreciation

Enter on this line one-fifth of the depreciation expense added back on each of the last five year’s returns (see instructions for line 26).

Line 38 – Previously Reported Income Under Claim of Right

Enter on this line any amount that was received and included in federal taxable income in a prior year that was paid back in 2005 if (i) the repayment has not otherwise reduced your federal taxable income for 2004 or 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 39 – Total Deductions

Enter on line 39 the total of lines 30 through 38.

Line 40 – Net Schedule A Adjustments

If line 29 is larger than line 39, subtract line 39 from line 29 and enter the amount on line 40. Also, copy this amount onto line 2 on the front of this return and add this amount to your federal taxable income.

If line 29 is smaller than line 39, subtract line 29 from line 39 and enter the amount on line 40. 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 – Credits (for Estates Only)

The Schedule B credits correspond to applicable credits found on the Ohio Individual Income Tax Return (form IT 1040). For a more complete explanation of the credits listed, please refer to the 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 41 – Retirement Income Credit

An estate is entitled to a credit for retirement benefits received and 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 42 – Senior Citizen’s Credit

An estate may claim this credit if the decedent was 65 years of age or older as of the date of death.

Line 43 – 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 IT 1040 booklet for other limitations and calculations.

Line 44 – Ohio Political Contributions Credit

An estate may claim this credit for contributions made to the campaign committee of a statewide office. The limit is \$50. See the IT 1040 booklet for limitations and calculations.

Line 45 – Total Schedule B Credits for Estates

Add lines 41 through 44 and enter the amount on line 45 and on line 9.

Schedule C – Resident Credit for Estates

Line 46 – 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 the District of Columbia, less related deductions allowed in computing federal taxable income, plus or minus any related adjustments in Schedule A.

Line 47 – Ohio Taxable Income

Enter the amount from line 3.

Line 48

Divide the amount on line 46 by the amount on line 47 and write the percentage in the box provided. Multiply the percentage by the amount of tax on line 8 less any credits on line 9, and enter the result on line 48.

Line 49 – 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.

Line 50 – Ohio Resident Tax Credit for Estates

Enter the smaller of lines 48 and 49. This is the Ohio resident credit for estates.

Schedule D – Nonresident Credit for Estates

Line 51 – 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 O.R.C. sections 5747.20 through 5747.23. Use Ohio form IT 2023 and attach to form IT 1041.

Line 52 – Ohio Taxable Income

Enter the amount of Ohio taxable income from line 3.

Line 53 – Nonresident Credit

Divide the amount on line 51 by the amount on line 52. Multiply the percentage by the amount of tax on line 8 less any credits on line 9. This amount is the estate's nonresident credit.

Schedule E – 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 www.tax.ohio.gov.

Schedule F – Allocated Qualifying Trust Amount for Trusts

Line 54 – 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 qualifying investee to the extent included in Ohio taxable income (line 3) if the location of the physical assets of a closely held 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 zero.

Line 55 – Ohio Percentage of Closely Held Investee’s Physical Assets

Divide the book value of the physical assets of the closely held 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 55.

Line 56 – Allocated Qualifying Trust Amount

Multiply the amount on line 54 by the percentage on line 55. Enter here and on line 4. Enter negative amounts in parentheses.

Schedule G – Apportioned Income for Trusts

Line 57 – Business Income and Qualifying Investment Income

Enter the trust’s portion of Ohio taxable income (line 3) not included on line 54 to the extent such income was:

- Business income/loss (see O.R.C. section 5747.01(B)); OR
- Constitutes qualifying investment income (see O.R.C. section 5747.012).

Line 58 – Ohio Apportionment Ratio

Enter the apportionment ratio from line 73 carried to six decimal places.

Line 59 – Apportioned Income for Trusts

Multiply the amount on line 57 by the apportionment ratio on line 58. Enter here and on line 5. Enter negative amounts in parentheses.

Schedule H – Allocated Nonbusiness Income for Trusts

Line 60 – Allocation of Income for Resident Trusts

Resident trusts must enter the trust’s Ohio taxable income (line 3) not reported on lines 54 or 57.

Line 61 – 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 lines 54 or 57:

- 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 gain and/or losses from the sale or transfer of such winnings.

Line 62 – Allocated Nonbusiness Income

Add the amount of nonbusiness income shown on lines 60 and 61. Enter here and on line 6.

Schedule I – Resident Tax Credit for Trusts

Line 63 – Portion Taxed by Another State

Enter the amount of the resident trust’s allocated nonbusiness income (line 60) subjected to tax by another state or the District of Columbia.

Line 64 – Ohio Tax

Enter the amount of your tax from line 8.

Line 65 – Modified Ohio Taxable Income

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

Line 66 – Average Effective Tax Rate

Divide the amount on line 64 by the amount on line 65. This is your average effective tax rate.

Line 67

Multiply the amount on line 63 by the average effective tax rate on line 66.

Line 68 – Tax Paid to Another State

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

Line 69 – Trust Resident Tax Credit

Enter the smaller of the amounts on lines 67 and 68. This is your resident tax credit. Enter the amount here and on IT 1041, line 10.

Example: The Pat Smith Trust is an Ohio resident trust with no qualifying trust amount and no business income. The 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. The state of Illinois imposed a tax of \$1,000 based upon an Illinois taxable income of \$25,000. The trustee would calculate the resident credit as follows:

Line 63	\$25,000
Line 64	\$3,158
Line 65	\$75,000
Line 660421
Line 67	\$1,053
Line 68	\$1,000
Line 69	\$1,000

Ohio Income Tax Table

To be used for calculating the tax for line 8 for the taxable year beginning in 2004.

Amount on Line 3 (Estates) or Line 7 (Trusts)	2004 Tax (to Line 8)				
\$0 - \$5,000			.743%	at that income	
\$ 5,000 - \$ 10,000	\$37.15	+	1.486%	of excess over	\$5,000
\$ 10,000 - \$ 15,000	\$111.45	+	2.972%	of excess over	\$10,000
\$ 15,000 - \$ 20,000	\$260.05	+	3.715%	of excess over	\$15,000
\$ 20,000 - \$ 40,000	\$445.80	+	4.457%	of excess over	\$20,000
\$ 40,000 - \$ 80,000	\$1,337.20	+	5.201%	of excess over	\$40,000
\$ 80,000 - \$100,000	\$3,417.60	+	5.943%	of excess over	\$80,000
\$100,000 - \$200,000	\$4,606.20	+	6.9%	of excess over	\$100,000
More than \$200,000	\$11,506.20	+	7.5%	of excess over	\$200,000

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

Important Notice

If the decedent was a resident of a school district with an income tax and if the fiduciary of the estate is required to file Ohio form IT 1041, then the fiduciary of the estate must also file a School District Estate Income Tax Return, form SD 100E, for such taxable year.

For assistance and/or forms, please visit our Web site at www.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 Trust Only

Apportionment Factors

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 O.R.C. sections 5733.057 and 5747.231.

If the apportioned income from business income/losses and from qualifying investment income were 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 70)

Except as set forth below, 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 this state during the taxable year. The denominator 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 property.

In determining average value do not include in either column 1 (within Ohio) or in column 2 (total everywhere) the following:

- Construction in progress.
- The original cost of rental property owned but leased to another if the lessee uses the property in the lessee’s trade or business. See O.R.C. section 5747.013(A)(1).
- 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 O.R.C. section 5747.013.
- The original cost of real property and tangible property (or in the case of property that is being rented from others, eight times its net annual rental rate) within Ohio, which is used exclusively during the taxable year for qualified research.

Line 70(a), Column 1 – Owned property 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 and not excluded, above.

Line 70(a), Column 2 – Owned property – 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 and not excluded above.

Line 70(b) – Rented property.

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 70(c) – Total property within Ohio and everywhere.

Add lines 70(a) and 70(b) for column 1, (within Ohio) and column 2 (total everywhere).

Line 70(c), Column 3 – Property ratio.

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

Line 70(c), Column 5 – Weighted property ratio.

Multiply the property ratio on line 70(c), column 3 by the property factor weighting of 20%.

Payroll Factor (Line 71)

The payroll factor is a fraction, the numerator of which is the total compensation in this state by the trust during the taxable year, and the denominator of which is the total compensation everywhere by the trust during such year.

Compensation means any form of remuneration paid to an employee for personal services. For purposes of the payroll factor, “payroll” does not include compensation that an S corporation paid to any “qualifying investor” if the qualifying investor directly or indirectly owned at least 20% of the S corporation at any time during the year. O.R.C. section 5733.40(l) defines “qualifying investor.” Do not include compensation paid in this state to employees who are primarily engaged in qualified research. Compensation is paid in Ohio if any of the following applies:

1. The recipient’s service is performed entirely within Ohio; or
2. 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
3. Some of the recipient’s service is performed within Ohio and either (i) the recipient’s base of operation or, if there is no base of operations, the place from which the recipient’s service is directed or controlled is within Ohio; or (ii) the recipient’s 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 who performs his/her 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 that 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.

Sales Factor (Line 72)

The sales factor is a fraction whose numerator is comprised of the includible receipts in Ohio during the taxable year. The denominator is comprised of the sum of the includible receipts within Ohio and without Ohio during the taxable year.

The sales factor generally includes receipts attributable to modified business income and qualified investment income. However, the following are excluded from both the numerator and the denominator of the sales factor:

- Dividends and interest (see *Incom International v. Limbach*, BTA No. 84-D-1149 (1-11-88));
- Receipts from sales or other disposals of capital assets or assets described in I.R.C. section 1231, and receipts from those other sources of income that are specifically allocated under divisions (A) through (G) of O.R.C. section 5733.051;
- Receipts from sales to certain closely held public utilities, insurance companies and financial institutions. See O.R.C. section 5747.013(B)(3).

Line 72, 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 reflect business done in Ohio. Sales within Ohio include the following:

- **Receipts from sales of tangible personal property**, 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 situsued to the destination state as a sale of tangible personal property (rather than situsued 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.**

- **Rents and royalties from tangible personal property if the property is (i) used entirely in the state or (ii) used more in this state than in any other state.**
- **Rents and royalties from real property located in Ohio.**
- **Receipt from sales, other than sales of tangible personal property and real estate 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.

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 situsued 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.

Line 72, Column 2 – Sales everywhere.

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

Line 72, Column 3 – Sales ratio.

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

Line 72, Column 5 – Weighted sales ratio.

Multiply the sales ratio on line 72, column 3 by the sales factor weighting of 60%.

Taxpayer Assistance

By Internet



Ohio Department of Taxation Internet Web site – www.tax.ohio.gov

Tax Forms
Instructions
Information Releases
E-mail us

By Phone



Toll Free Telephone Numbers:

Toll Free **Business Taxpayer Service** 1-888-405-4039
Toll Free **Form Requests** 1-800-282-1782
Toll Free **Registration Unit** 1-888-405-4089

Written



Ohio Department of Taxation Taxpayer Services Mailing Address:

Ohio Department of Taxation
Taxpayer Services Division
Taxpayer Services Contact Center
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 in next column.

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, Rm. 570
Cleveland, OH 44113-1891

Columbus Taxpayer Service Center
800 Freeway Drive North
Columbus, OH 43229

OR

30 East Broad St., 20th Floor
Columbus, OH 43215

Dayton Taxpayer Service Center
Centre City Offices
40 S. Main St., 5th Floor
Dayton, OH 45402-2043

Toledo Taxpayer Service Center
One Gov't. 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 Department of Taxation phone number that you wish to contact.

Volunteer 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 Internal Revenue Service 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 help.