



2005

Ohio

Fiduciary Income Tax Return

IT 1041

Instructions

General Instructions

We mailed the year 2005 form IT 1041 to those fiduciaries who filed a year 2004 fiduciary income tax return with either the state of Ohio or the IRS.

Who Does Not Have to File a Return?

You are not required to file a year 2005 form IT 1041 with the state of Ohio if all of the following apply:

- The fiduciary's year 2005 IRS 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.

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 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 (form IT 1041) for the taxable year.

Amended Substitute H.B. 66, 126th General Assembly, made permanent Ohio's income tax on **trusts** that are 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.

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 10.

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, 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 resident 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 generally will not owe any Ohio income tax and generally 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 adjustments set forth on form IT 1041.

Definition of "Resident" Trust

Ohio Revised Code section (R.C.) 5747.01(l)(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 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 R.C. 5747.01(l)(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 (l)(3)(a), (l)(3)(e) and (l)(3)(f) of R.C. 5747.01.

Due Date

The fiduciary income return is due 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 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 attach 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 year 2005 form IT 1041ES or on year 2005 form IT 1041EXT, 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. Please see page 11.

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 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. **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 tax.ohio.gov.

Only estates are entitled to the the credits set forth in Schedule B of form IT 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 R.C. 5747.02.

You can find more information on the Department of Taxation's Web site at tax.ohio.gov (click on "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 2005 Ohio Schedule E – Nonrefundable Business Credits). See line item 10 instructions.

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 2005 form IT 1041EXT available 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 5% for 2005 and is 6% for 2006.

Amended Returns

You may make any change or correction to your already filed return by filing another Fiduciary Income Tax Return, 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 get 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 Internal Revenue Service, the fidu-

ciary must file an amended 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.

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 2005 Ohio tax (IT 1041, line 11) and
- 100% of your 2004 Ohio tax (IT 1041, line 11).

If the estate or trust owes an interest penalty, the fiduciary must complete form IT 2210 and enter the interest penalty on line 12 of form IT 1041. The fiduciary will need to modify form IT 2210 slightly since that form's use is primarily for individuals.

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 (i) the

following conditions apply and (ii) if the fiduciary completes form IT 2210 and attaches it to this return.

Note: You can obtain form IT 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 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).

Line Item Instructions for Form IT 1041

Line 1 – Federal Taxable Income

Enter the amount from line 22 of IRS 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 6 and 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. 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 59. 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 62.

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 (see line 1). Note that federal taxable income is net of the income distribution deduction;
- Second, make the adjustments (additions and subtractions) allowable under division (S) of R.C. 5747.01. See lines 21-40. Unlike estates, trusts do not have to add back the amount of the exemption deduction allowable for federal income tax purposes (see line 27);

- 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 ratio (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 factor (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 10 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, Schedule E Business Credits and New Manufacturing Equipment Grant

Enter the total amount of credits from Schedules C, D, E and I. **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 nonrefundable 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. 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 2005 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 2005 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).
- (2) **The purchaser of the qualifying new manufacturing machinery and equipment files a "notice of intent" with Ohio Department of Development by the date of the taxpayer's timely file tax return, including extensions, for the taxpayer's taxable year that includes Sept. 30, 2005.** 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 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 their forms 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 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 4 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), the fiduciary should enter the amount of tax paid on behalf of the trust or estate. Investors that claim this credit **must attach federal K-1s** 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 2006

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

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-1s 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 are deducted in calculating federal taxable income.

Line 25 – 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 the reimbursement is not included in federal taxable income for 2005.

Line 26 – Depreciation Adjustments

In determining Ohio taxable income a taxpayer that for federal income tax purposes claims Internal Revenue Code section (I.R.C.) 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. 179 and (ii) the amount of depreciation expense directly or indirectly allowed to the taxpayer under I.R.C. 179 as that section existed on Dec. 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 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 "Releases." The department issued this information release on July 31, 2002, and revised the release in July 2005.

Line 27 – Personal Exemption (Estates Only) 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).

The trust or estate must also add back all deductions allowed solely on account of any I.R.C. amendments enacted after June 30, 2005.

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 -0- 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. Ex-

amples 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.

The trust or estate can subtract any item of income or gain required to be recognized solely on account of any I.R.C. amendment enacted after June 30, 2005.

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 R.C. 5713.30 regardless of whether the land is valued for the purposes as such under R.C. 5713.30-5713.38.

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 2006 if (i) the repayment has not otherwise reduced your federal taxable income for 2005 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 maximum credit is \$50

per return. See the IT 1040 booklet for more information and for 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 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 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 reduced by any amount shown 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. **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 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 R.C. 5747.20 through 5747.231. Use Ohio form IT 2023 and attach to form IT 1041.

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 reduced by the amount shown 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 tax.ohio.gov.

Schedule F – Allocated Qualifying Trust Amount 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 5742.01(BB)(5).

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 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 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)(b) 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 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 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)15. Also refer to page 2, "Allocated Qualifying Trust Amount."

Line 55 – 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 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 is either of the following:

- Business income/loss (see R.C. 5747.01(B)) OR
- Qualifying investment income (see R.C. 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 on line 69 and on form 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. 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 Ohio resident credit as follows:

Line 63	\$25,000
Line 64	\$3,158
Line 65	\$75,000
Line 660421
Line 67	\$1,053
Line 68	\$1,100
Line 69	\$1,053

Ohio Income Tax Table

To be used for calculating the tax for line 8 for the taxable year beginning in 2005.

Amount on Line 3 (Estates) or Line 7 (Trusts)	2005 Tax (to Line 8)				
\$0 - \$5,000			.712%	of that income	
\$ 5,000 - \$ 10,000	\$35.60	+	1.424%	of excess over	\$5,000
\$ 10,000 - \$ 15,000	\$106.80	+	2.847%	of excess over	\$10,000
\$ 15,000 - \$ 20,000	\$249.15	+	3.559%	of excess over	\$15,000
\$ 20,000 - \$ 40,000	\$427.10	+	4.27%	of excess over	\$20,000
\$ 40,000 - \$ 80,000	\$1,281.10	+	4.983%	of excess over	\$40,000
\$ 80,000 - \$100,000	\$3,274.30	+	5.693%	of excess over	\$80,000
\$100,000 - \$200,000	\$4,412.90	+	6.61%	of excess over	\$100,000
More than \$200,000	\$11,022.90	+	7.185%	of excess over	\$200,000

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

Important Notice

If the decedent was a resident of a school district, other than the Circleville 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 for that taxable year a School District Estate Income Tax Return, form SD 100E.

For assistance and/or forms, please visit 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

Apportionment Factors R.C. 5741.013(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. 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 R.C. 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 R.C. 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 per-

sonal 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. R.C. 5733.40(I) 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 composed of the includible receipts in Ohio during the taxable year. The denominator is composed 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. 1231, and receipts from those other sources of income that are specifically allocated under divisions (A) through (G) of R.C. 5733.051;
- Receipts from sales to certain closely held public utilities, insurance companies and financial institutions. See R.C. 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 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.**

- **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 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.

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 – tax.ohio.gov

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

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
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
4485 Northland Ridge Blvd.
Columbus, OH 43229-6596
OR
30 East Broad St., 20th Floor
Columbus, OH 43215-3414

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.