

§ 5747.20. Allocation of nonbusiness income or deduction to Ohio.

This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code.

All items of nonbusiness income or deduction shall be allocated in this state as follows:

(A) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a resident shall be allocated to this state.

(B) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a nonresident shall be allocated to this state as follows:

(1) All items of compensation paid to an individual for personal services performed in this state who was a nonresident at the time of payment and all items of deduction directly allocated thereto shall be allocated to this state.

(2) All gains or losses from the sale of real property, tangible personal property, or intangible property shall be allocated as follows:

(a) Capital gains or losses from the sale or other transfer of real property are allocable to this state if the property is located physically in this state.

(b) Capital gains or losses from the sale or other transfer of tangible personal property are allocable to this state if, at the time of such sale or other transfer, the property had its physical location in this state.

(c) Capital gains or losses from the sale or other transfer of intangible personal property are allocable to this state if the taxpayer's domicile was in this state at the time of such sale or other transfer.

(3) All rents and royalties of real or tangible personal property shall be allocated to this state as follows:

(a) Rents and royalties derived from real property are allocable to this state if the property is physically located in this state.

(b) Rents and royalties derived from tangible personal property are allocable to this state to the extent that such property is utilized in this state.

The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in this state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the nonresident, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(4) All patent and copyright royalties shall be allocated to this state to the extent the patent or copyright

was utilized by the payor in this state.

A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state, or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer's domicile was in this state at the time such royalties were paid or accrued.

A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the taxpayer's domicile was in this state at the time such royalties were paid or accrued.

(5) (a) All lottery prize awards paid by the state lottery commission pursuant to Chapter 3770, of the Revised Code shall be allocated to this state.

(b) All earnings, profit, income, and gain from the sale, exchange, or other disposition of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770, of the Revised Code shall be allocated to this state.

(c) All earnings, profit, income, and gain from the direct or indirect ownership of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770, of the Revised Code shall be allocated to this state.

(d) All earnings, profit, income, and gain from the direct or indirect interest in any right in or to any lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770, of the Revised Code shall be allocated to this state.

(6) Any item of income or deduction which has been taken into account in the computation of adjusted gross income for the taxable year by a nonresident and which is not otherwise specifically allocated or apportioned pursuant to sections 5747.20 to 5747.23 of the Revised Code, including, without limitation, interest, dividends and distributions, items of income taken into account under the provisions of sections 401 to 425 of the Internal Revenue Code, and benefit payments received by a beneficiary of a supplemental unemployment trust which is referred to in section 501(c)(17) of the Internal Revenue Code, shall not be allocated to this state unless the taxpayer's domicile was in this state at the time such income was paid or accrued.

(C) If an individual is a resident for part of the taxable year and a nonresident for the remainder of the taxable year, all items of nonbusiness income or deduction shall be allocated under division (A) of this section for the part of the taxable year that the individual is a resident and under division (B) of this section for the part of the taxable year that the individual is a nonresident.

HISTORY: 134 v H 475 (Eff 12-20-71); 135 v H 95 (Eff 7-20-73); 140 v H 250 (Eff 7-30-84); 142 v H 171 (Eff 7-1-87); 143 v H 111 (Eff 7-1-89); 147 v H 215 (Eff 9-29-97); 149 v S 226. Eff 9-17-2002.