



Attach this form to the Ohio Corporation Franchise Tax Report, Ohio form FT 1120.

Valuation Limitation on Gains and Losses From Sales or Exchanges of Capital Assets or IRC Section 1231 Assets

See Ohio Revised Code Section (R.C.) 5733.04(l)(3)

For calendar year _____, or other taxable year beginning _____, _____ and ending _____, _____. The beginning of the taxpayer's first franchise tax accounting period, which ended after Dec. 20, 1971 was _____, _____.

Corporation name: Ohio franchise tax ID number: Tax Year:

Table with 8 columns: A Kind of Property, B Date Acquired, C Date Sold, D Fraction, E Gain or Loss, F Valuation Limitation, G *Allocable Gain or Loss, H *Apportionable Gain or Loss. Rows include short-term capital gains, unused capital loss carryover, long-term capital gains, and gains/losses from trade or business.

*Gains and losses from the sales of depreciable tangible personal property and real property taxed as ordinary (recapture) income or loss for federal income tax purposes are considered capital gains and capital losses for franchise tax purposes. See Borden, Inc. v Limbach (1990), 49 Ohio St 3d 240.

Caution: For taxable years ending in on or after June 26, 2003, R.C. 5733.051 distinguishes business income from nonbusiness income. Only nonbusiness gains and losses are allocable. Gains and losses from sales of depreciable tangible personal property and gains and losses from sales of real property are generally apportionable business income.

Instructions

In accordance with Ohio Revised Code section (R.C.) 5733.04(I)(3) valuation limitation is the loss or gain resulting from the sale, exchange or other disposition of a capital asset or a section 1231 asset to the extent that such loss or gain occurred prior to the first taxable year on which the franchise tax is computed on the corporation's net income.

The beginning of the first taxable year on which the franchise tax is computed on the corporation's net income is the beginning of the taxpayer's first franchise tax accounting period which ended after Dec. 20, 1971 (the date of enactment of the net income basis of the franchise tax). See *Clyde Williams Enterprises, Inc. and Subsidiaries v Limbach*, BTA Case No. 85-D-132, May 19, 1986.

Ohio Revised Code Section 5733.04(I)(3)

Add any loss or deduct any gain resulting from the sale, exchange or other disposition of a capital asset or an asset described in Internal Revenue Code section 1231, to the extent that such loss or gain occurred prior to the first taxable year

on which the tax provided for in R.C. 5733.06 is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in R.C. 5733.06 is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in R.C. 5733.06 is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in R.C. 5733.0510, with respect to a qualifying taxable event, as defined in that section.

Gains and Losses from the Sale or Exchange of Property used in a Trade or Business (continued)							
A Kind of Property <small>(if necessary, attach description)</small>	B Date Acquired <small>(month, day, year)</small>	C Date Sold <small>(month, day, year)</small>	D Fraction	E Gain or Loss	F Valuation Limitation	G *Allocable Gain or Loss <small>Column E less Column F</small>	OR H *Apportionable Gain or Loss <small>Column E less Column F</small>
Total							