Tax Year ________

FT QHC
Rev. 6/08

Ohio Department of Taxation

Qualifying Holding Company Election
Ohio Revised Code Sections (R.C.) 5733.04(L), 5733.05(D) and 5733.06(C)

Name of corporation making election	Ohio franchise tax ID number
Address	Ohio license/charter number

The taxpayer hereby elects to be a qualifying holding company (QHC) for the tax year indicated above. I declare that all of the qualifying holding company requirements listed on pages two and three are met.

Signature of officer or managing agent Title Date

This election applies only to the above indicated tax year. If the taxpayer intends to be a qualifying holding company for any other tax year, the taxpayer must meet the QHC requirements for that tax year and must make a separate election for that tax year. A QHC is exempt from the net worth base of the franchise tax but is not exempt from the net income base. A taxpayer can make the QHC election any time before the taxpayer's statute of limitations expires for the tax year for which the election applies. A taxpayer can also make the QHC election on a timely filed petition for reassessment. Furthermore, a taxpayer can revoke the QHC election.

Attach this election to the corporation's franchise tax report, amended franchise tax report or petition for reassessment. Also attach the following:

1. The name of each of the QHC's **related members** as of the last day of the QHC's taxable year preceding the tax year.
2. Identify those related members listed in #1 above that made or are required to make the franchise tax **qualifying amount** adjustment required by division (D) of R.C. section 5733.05. That is, identify the QHC's related members that must adjust their net worth and debt for purposes of computing their franchise tax on the net worth base, such that the related members' debt-to-equity ratio equals the consolidated debt-to-equity ratio of the **qualifying controlled group.**
3. A consolidated balance sheet for the qualifying controlled group of which the QHC is a member as of the last day of the QHC's taxable year preceding the tax year. Furnish the name and federal employer identification number of each member of the QHC's qualifying controlled group.
4. Compute the consolidated debt to equity ratio for the qualifying controlled group of which the taxpayer is a member.

The terms in bold print, above, are defined on page 3.

Requirements

A QHC is a taxpayer that satisfies all of the following five requirements **and** elects to be treated as a QHC:

1. **The taxpayer's "intangible assets ratio" equals or exceeds 90%.** The intangible assets ratio is the average of the quarterly ratios determined as of the end of each of the four quarters of the taxpayer's taxable year ending before Jan. 1 of the tax year. Each quarterly ratio is computed as follows:

$$\frac{\text{Net book value (NBV) of the taxpayer's intangible assets}}{\text{NBV of all the taxpayer's assets minus the sum of (a) and (b)}}$$

a. NBV of corporate aircraft used by the taxpayer's employees.
b. NBV of real property that serves as the taxpayer's headquarters **if** at all times during the taxable year before Jan. 1 of the tax year not more than 10% of the value of the headquarters real property and not more than 10% of the square footage of the buildings that are part of the headquarters real property is in the normal course of business used by or made available to persons other than the taxpayer, the taxpayer's related members, the taxpayer's employees and the taxpayer's related members' employees.

2. **The taxpayer's "investment in related members ratio" equals or exceeds 50%.** The investment in related members ratio is the average of the quarterly ratios determined as of the end of each of the four quarters of the taxpayer's taxable year ending before Jan. 1 of the tax year. Each quarterly ratio is determined as follows:

$$\frac{\text{NBV of the taxpayer's direct and indirect investments in the equity of, loans and advances to, and accounts receivable due from, related members}}{\text{NBV of all the taxpayer's assets}}$$

3. **The taxpayer's "gross income from intangible assets ratio" for the taxable year equals or exceeds 90%.** The gross income from intangible assets ratio is:

$$\frac{\text{The taxpayer's "gross income from intangible assets" plus gross income from aircraft and headquarters real property described in (a) and (b) of the intangible assets ratio (above)}}{\text{Total gross income}}$$

Gross income from intangible assets is income from "the maintenance, management, ownership, acquisition, use and disposition of intangible property."

4. **The taxpayer is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year.**

5. **The taxpayer's related members adjust their net worth and debt for purposes of computing their franchise tax on the net worth base by the "qualifying amount," such that the related members' debt-to-equity ratio equals the consolidated debt-to-equity ratio of the "qualifying controlled group."**

Note: For purposes of the QHC provisions, the taxpayer's direct interest in a **pass-through entity** is an "intangible asset" <u>only if</u> at all times during the taxpayer's taxable year ending before Jan. 1 of the tax year the taxpayer's and the taxpayer's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do <u>not</u> exceed 50%.

If a taxpayer's direct interest in a pass-through entity is an intangible asset, then . . .

1. for purposes of computing the intangible assets ratio the taxpayer must include in both the numerator and denominator the net book value of taxpayer's direct interest in the pass-through entity, and

2. for purposes of computing the gross income from intangible assets ratio, the taxpayer must include in both the numerator and denominator the taxpayer's entire distributive share of the gross income from the pass-through entity.

If the taxpayer's direct interest in a pass-through entity is <u>not</u> an intangible asset, then . . .

1. for purposes of computing the intangible assets ratio the taxpayer must include in the numerator the taxpayer's proportionate share of the net book value of the pass-through entity's intangible assets and must include in the denominator the taxpayer's proportionate share of the net book value of all the pass-through entity's assets and

2. for purposes of computing the gross income from intangible assets ratio, the taxpayer must include in the numerator the taxpayer's distributive share of the pass-through entity's gross income from intangible property and must include in the denominator the taxpayer's distributive share of all the pass-through entity's gross income.

If the taxpayer's interest in a pass-through entity is <u>not</u> an intangible asset <u>and</u> the pass-through entity has a direct or indirect interest in any other pass-through entity, then . . .

1. for purposes of computing the taxpayer's proportionate share of the net book value of the pass-through entity's assets, the taxpayer must include the pass-through entity's proportionate share of the other pass-through entity's assets, and
2. for purposes of computing the taxpayer's proportionate share of the pass-through entity's gross income, the taxpayer must include the pass-through entity's distributive share of the other pass-through entity's gross income.

Note: Do not confuse a "qualifying holding company" with a "quiescent holding company." Quiescent holding company status does not apply to tax years 1999 and thereafter. Under prior case law (see *Nationwide Corp. v. Schneider* (1966), 7 Ohio St.2d 59) a taxpayer was a quiescent holding company if its business activities were not sufficient to constitute "doing business." As a quiescent holding company, a taxpayer was not required to compute a net worth base "business done" factor that in effect reduced a taxpayer's net worth "Ohio ratio" to one half of its property ratio. (Under prior law the net worth base "Ohio ratio" equaled one-half the sum of the "business done ratio" and the net worth "property ratio"). House Bill 215, 122nd General Assembly, replaced the net worth base "Ohio ratio" with the net income base apportionment ratio. The new law eliminates "quiescent holding company" status because, unlike the Ohio ratio, if the denominator of any factor of the apportionment ratio is zero, the weight given to the other factors must be proportionately increased so that the total weight given to the combined number of factors used is 100%.

Definitions

"Related member" means a person that with respect to the taxpayer is any of the following:

1. an individual stockholder, or a member of the stockholder's family enumerated in Internal Revenue Code (I.R.C.) section 318, if the stockholder and the members of the stockholder's family own directly or indirectly in the aggregate at least 50% of the value of the taxpayer's outstanding stock;

2. a stockholder, or stockholder's partnership, estate, trust or corporation, if the stockholder and the stockholder's partnerships, estates, trusts and corporations own directly or indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

3. a corporation, or a party related to the corporation in a manner that would require I.R.C. section 318 attribution of stock from the corporation to the party or from the party to the corporation, if the taxpayer owns directly or indirectly in the aggregate at least 50% of the value of the corporation's outstanding stock;

4. a "component member" as defined in I.R.C. section 1563(b); or

5. a person to whom or from whom there is attribution of stock ownership in accordance with I.R.C. section 1563(e) except that "20%" shall be substituted for "5%" wherever "5%" appears in I.R.C. section 1563(e). See R.C. 5733.042(A)(6).

"Qualifying controlled group" means two or more corporations that meet the R.C. 5733.052(A) ownership and control requirements to file a combined franchise tax report (whether or not the corporations actually file a combined report and whether or not the corporations are subject to the franchise tax). See R.C. 5733.04(M).

"Qualifying amount" means the amount that when added to the taxpayer's net worth (assets minus liabilities) and subtracted from the taxpayer's liabilities or when subtracted from the taxpayer's net worth and added to the taxpayer's liabilities results in the taxpayer's debt-to-equity ratio equaling the consolidated debt-to-equity ratio of the qualifying controlled group of which the taxpayer is a member computed in accordance with generally accepted accounting principles on the last day of the taxpayer's taxable year ending before the first day of the tax year. However, the qualifying amount that is added to the taxpayer's net worth and subtracted from the taxpayer's liabilities may not exceed the amount of the taxpayer's liabilities owed to related members. Furthermore, the taxpayer's net worth after adjustment by the qualifying amount may not exceed the net book value of the corporation's assets. See R.C. 5733.05(D).

"Pass-through entity" means an S corporation, or a partnership, limited liability company or any other person other than an individual, trust or estate, if the partnership, limited liability company or other person is not classified for federal income tax purposes as an association taxed as a corporation. R.C. 5733.04(O).