

ESTATE TAX

The basic Ohio estate tax is levied against the value of a resident decedent's gross estate less deductions and exemptions. Graduated rates range through six taxable estate brackets from two percent on taxable values of under \$40,000 to \$23,600 plus seven percent on that portion of taxable value which exceeds \$500,000. Each estate also receives a \$500 tax credit. Large estates may also be subject to an "additional" tax which is levied solely to ensure full benefit to Ohio of credits the federal government allows taxpayers against federal estate tax liability for their payment of state death taxes. Ohio also taxes nonresident estates on property values attributable to Ohio.

The total liability on the basic resident estate tax amounted to \$339.3 million on 27,676 taxable estates in fiscal year 1999, compared to \$270.2 million on 24,833 taxable estates in fiscal year 1998. This represents an increase of revenue of \$69.1 million or 25.6% increase. In fiscal year 1999, 3,552 estates, 12.8 percent of the total number of estates generating tax, had net taxable value of \$500,000 or more and yielded approximately \$229.5 million in aggregate taxes, or 67.6 percent of the statewide total for the basic resident estate tax.

Additional revenues of \$45.4 million were attributable to net interest and penalties, the "additional" tax, nonresident returns, the inheritance tax, and amounts paid by installment estates in fiscal year 1999.

The Estate Tax Division also completed audits and finalized returns for 24,091 non-taxable estates in fiscal year 1999.

Data on number of estates, gross and net valuations, and tax paid for the basic resident estate tax are shown by net taxable value bracket in Table 27. These statistics are presented by fiscal year in Table 28 and by county of probate in Table 30. Total revenue produced by Ohio's estate tax is shown in Table 29 with the breakdown of monies distributed to local governments and the remainder retained by the state.

TAX BASE:

Resident: The "net taxable estate," i.e., value of a decedent's gross estate, less deductions (R.C. 5731.15-17). In general, the gross estate equals the aggregate market value at time of death, or on the alternate valuation date (see **SPECIAL PROVISIONS**), of all property, wherever situated, held by the decedent, except real and tangible personal property situated outside of Ohio, and "qualified farm property," which may be valued according to its "actual qualified use" (R.C. 5731.01, 5731.011, 5731.03-13).

The "net taxable estate" equals the gross estate less the following deductions:

- Marital deduction, where there is a surviving spouse;
- Funeral expenses and costs of administering the estate;
- Outstanding and unpaid claims against the estate at time of decedent's death;
- Unpaid mortgage or other indebtedness against property where total value is included within the gross estate valuation;
- Charitable deductions.

Nonresident: That portion of a nonresident decedent's estate which is attributable to Ohio (i.e. in general, real property and tangible personal property located or having a situs in Ohio, and intangible personal property used in business within Ohio unless exempt pursuant to R.C. 5731.34).

Tax is determined (for both nonresident estate and nonresident additional taxes) by (1) calculating tax which would be due from the estate, at rates applicable to resident estates, if decedent had died a resident of Ohio with all property situated or located in Ohio, and (2) multiplying the resultant amount by a fraction representing the ratio of gross estate value attributable in Ohio to gross estate value wherever situated.

RATES (R.C. 5731.02):

Rates are generated through six “taxable estate” brackets, as shown in **EXHIBIT 3 -- ESTATE TAX** (page 41).

NON-FILING REQUIREMENTS (R.C. 5731.21):

Resident estates with gross values under \$25,000 and no real property are exempt from filing returns.

MARITAL DEDUCTION:

Unlimited marital deductions allowed.

TAX CREDITS (R.C. 5731.02):

\$500 or the full amount of tax, whichever is less

SPECIAL PROVISIONS:

1. **Additional Tax (R.C. 5731.18):** The Ohio additional tax is a pick-up tax that captures any unused portion of the allowable federal estate tax credit. This additional tax is for state death taxes paid where the federal credit actually exceeds the Ohio estate taxes assessed. The tax is levied in an amount equal to the difference between the maximum allowable federal credit for state death taxes paid and state death taxes actually paid to Ohio or to any other U.S. state, territory, or the District of Columbia. Due to the interaction of the federal state death tax credit schedule and the Ohio estate tax rate structure, this tax in general affects only large estates.
2. **Alternate Valuation Date (R.C. 5731.01):** An alternate valuation date may be elected, which is the date six months after the decedent's death, or, in the case of its earlier disposition, on such dates of disposition. If the alternate evaluation date is elected, the election is required to be made within one year from the time the return is required to be filed.

3. **Undue Hardship Provision (R.C. 5731.25):**

Under certain conditions, an extension of time to pay Ohio estate tax because of undue hardship applies. An estate may receive an extension of the time to pay the estate tax not to exceed one year beyond the time the tax would otherwise be due if conditions exist caused by undue hardship as defined in R.C. 5731.25. In the case of continuing undue hardship, the estate may apply for an additional extension(s). The total of all extensions granted may not exceed 14 years.

4. **Qualified Farm Property Valuation and Recapture Provision (R.C. 5731.011):**

Under certain conditions, an estate may elect to have farm property passed to a qualified heir valued at its agricultural use value. A prospective supplemental tax lien remains on the property for four years when this election is used; the lien is equal to the tax savings due to the election and becomes effective if the farm property is disposed of (other than to another qualified heir), or ceases to be devoted exclusively to agricultural use within the four year limitation.

TAXPAYER:

Administrator, executor, other estate representative, or person in possession of the property subject to tax

FILING AND PAYMENT DATES:

In general, as follows:

Tax Return (R.C. 5731.21): To be filed within nine months of decedent's death with probate court of county in which estate is administered, unless an extension is granted

Tax Payment (R.C. 5731.23): Due within nine months of decedent's death, to treasurer of county in which decedent resided

DISPOSITION OF REVENUE (R.C. 5731.48-5731.51):

Sixty-four percent of gross taxes levied and paid to municipal corporation or township in which tax originates (50 percent if derived from estates of decedents dying prior to July 1, 1983). In general, for revenue distribution purposes, the tax on the transfer of real and tangible personal property located within Ohio originates in the municipal corporation(s) or township(s) in which such property is physically located. In the case of a resident decedent's intangible or tangible personal property located outside of Ohio, domicile of the decedent is determinative; in the case of intangibles of a non-resident decedent, origin is derived from Ohio domicile, location or place of business or custody of the person, bank, institution, or other entity having such property in possession or custody.

Thirty-six percent, less costs of administration, to state General Revenue Fund (50 percent if date of death was prior to July 1, 1983).

ADMINISTRATION (R.C. 5731.29, 5731.44, 5731.45, 5731.46):

The Tax Commissioner is responsible for the administration. The tax is collected locally by the treasurer of the county in which the decedent was a resident.

OHIO REVISED CODE CITATIONS:

Chapter 5731

RECENT LEGISLATION:***House Bill 366, effective March 18, 1999.***

R.C. 2106.13 - Increases from \$25,000 to \$40,000 the amount of property or money that a surviving spouse and/or minor children of the decedent can claim as an allowance for support.

R.C. 2113.03 - Increases from \$85,000 to \$100,000 the maximum value of a decedent's estate that can be relieved from administration, but only where the surviving spouse is entitled to inherit all assets of estate.

RECENT SIGNIFICANT COURT DECISIONS:

In Re Estate Of Oberstar, 126 Ohio App. 3d 17 (1998). Abatement occurs when the decedent's estate is insufficient to satisfy all debts and testamentary bequests, and refers to the resultant reduction or diminution of a beneficiary's bequest under the will. Thus, where a decedent's estate was insufficient to satisfy estate debts and bequests, the residuary beneficiaries abate before the general beneficiaries, and the general beneficiaries abate before the specific and demonstrative beneficiaries. Within the categories of bequests, each beneficiary bears a pro rata share of the estate debt for purposes of abatement, unless the testator clearly expresses an intent to prefer one bequest over another.

Sudnek v. Klein, 125 Ohio App. 3d 336 (1997). Section 2113.30 R.C. authorizing the continuance of the decedent's business by the executor or administrator of the estate for one month following the fiduciary's date of appointment without being subject to personal liability for losses incurred, and for any further periods as the court might authorize, applies to corporations that have a single shareholder. The executor or administrator must obtain the permission of the probate court in order to continue the business for more than one month, and to file monthly reports setting forth the receipts and expenses.

In Re Estate Of Cogan, 123 Ohio App. 3d 186 (1997). Where the executor for decedent's estate recorded a mortgage lien on decedent's residence which was filed prior to decedent's death, this action classified him as a secured creditor. Consequently, the executor was not required by statute to present his claim to probate court for allowance. Sections 2127.011 and 2127.38 R.C. requiring an executor to obtain legatees' written consent before selling real estate does not apply to estates of decedents who die testate. In distributing proceeds from a decedent's estate, mortgage indebtedness shall be paid from proceeds of sale of real estate before payment of funeral expenses.

Ogan v. Ogan, 122 Ohio App. 3d 580 (1997). Surviving spouse had valid cause of action against executor of decedent's estate to obtain reimbursement of full amount she paid to bank to satisfy decedent's debt under a note even though surviving spouse never signed the note. The decedent had an obligation to pay the bank the amount owed on the note, executor of estate accepted duty to pay decedent's debts upon decedent's death, and surviving spouse took place of bank and became creditor of estate by paying the debt under the note.

In Re Estate Of Line, 122 Ohio App. 3d 387 (1997). Upon the probate of testator's will, the title to real property devised under the residuary clause of the will vests immediately in the devisees, even though a power of sale may exist in the executor of the estate. Therefore, a devisee under the will did not have the option to take his share of testator's real property outright, where the executor of the estate found it to be in estate's best interest for property to be sold pursuant to testator's explicit direction, and executor had right of possession of real property in order to carry out testator's direction.

EXHIBIT 3 -- ESTATE TAX	
Taxable Estate Brackets (R.C. 5731.02)	
Taxable Estates of:	Tax Rate Imposed:
Not over \$40,000	2% of taxable estate
Over \$40,000 but not over 100,000	\$800 + 3% of excess over \$40,000
Over 100,000 but not over 200,000	2,600 + 4% of excess over 100,000
Over 200,000 but not over 300,000	6,600 + 5% of excess over 200,000
Over 300,000 but not over 500,000	11,600 + 6% of excess over 300,000
Over \$500,000	23,600 + 7% of excess over 500,000

Table 27
Distribution of Taxable Estates, Gross and Net Values, and Tax Liability by
Net Taxable Value Brackets, Fiscal Year 1999 (Resident Estates Only)

Net Taxable Value	Number of Estates	Aggregate Gross Value	Aggregate Net Taxable Value	Aggregate Tax Liability
Under 40,000	3,353	\$211,110,819	\$93,193,552	\$682,598
40,000 - 100,000	8,118	806,848,982	544,960,173	9,257,406
100,000 - 200,000	6,542	1,228,735,559	932,019,691	25,007,994
200,000 - 300,000	3,127	954,972,795	768,393,323	26,258,996
300,000 - 500,000	2,984	1,428,479,772	1,152,745,903	48,553,385
500,000 - 1,000,000	2,677	2,501,371,584	1,770,153,388	92,103,627
Over 1,000,000	<u>875</u>	<u>2,657,581,870</u>	<u>2,112,918,419</u>	<u>137,417,773</u>
Total	27,676	\$9,789,101,380	\$7,374,384,451	\$339,281,779

Note: Data shown here represent returns finalized by the Estate Tax Division during this fiscal year. This data differs from Table 30 due to reporting complications.

Table 28
Number of Estates, Gross and Net Value, and Aggregate Tax Liability
Fiscal Years 1996-1999 (Resident Estates Only)

Fiscal Year	Number of Estates	Aggregate Gross Value	Aggregate Net Taxable Value	Aggregate Tax Liability
1996	24,746	\$7,277,073,724	\$5,374,985,890	\$229,566,104
1997	25,849	8,417,303,414	6,254,613,767	277,452,464
1998	24,833	8,236,071,500	6,090,341,512	270,186,809
1999	27,676	9,789,101,380	7,374,384,451	339,281,779

Note: This data differs from Table 30 due to reporting complications.

Table 29
Estate Tax Collections and Distributions, Fiscal Years 1996-1999
(in millions)

Fiscal Year	Total Collections	State General Revenue	Local Governments
1996	\$257.9	\$89.9	\$168.0
1997	299.1	102.0	197.1
1998	323.8	114.8	209.0
1999	407.1	144.5	262.6

Source: State General Revenue Fund figures based on receipts reported by the Office of Budget & Management. Local Government figures based on the certified local shares (including fees) from the semi-annual settlements that occur in each fiscal year.

Table 30
Number of Estates, Aggregate Gross and Net Taxable Values, and Tax Liability, by County of Probate, Fiscal Year 1999* (Resident Estates Only)

County	Number of Estates	Gross Estate Value	Net Taxable Value	Tax Liability	County	Number of Estates	Gross Estate Value	Net Taxable Value	Tax Liability
Adams	50	\$8,283,077	\$7,245,740	\$227,978	Logan	111	\$41,561,143	\$35,338,661	\$1,815,376
Allen	261	74,383,871	51,386,643	1,926,306	Lorain	617	177,528,666	137,311,092	5,681,433
Ashland	140	27,894,711	23,430,693	799,719	Lucas	1,190	365,544,921	293,673,920	12,929,812
Ashtabula	237	60,395,038	44,318,979	1,769,180	Madison	86	27,115,656	21,619,079	980,728
Athens	87	24,793,314	20,929,040	927,219	Mahoning	655	212,348,380	159,111,856	7,060,862
Auglaize	129	50,129,131	28,964,989	1,184,783	Marion	159	54,687,355	40,924,759	1,732,579
Belmont	215	49,319,856	38,939,541	1,482,042	Medina	267	89,248,723	70,114,057	3,024,729
Brown	102	28,638,585	22,647,610	904,843	Meigs	61	15,245,982	10,173,058	359,663
Butler	639	234,922,632	171,254,000	7,671,670	Mercer	113	39,343,733	31,192,897	1,363,347
Carroll	66	12,609,308	10,636,250	397,846	Miami	234	81,695,849	60,914,334	2,693,617
Champaign	84	24,826,341	20,010,549	842,852	Monroe	53	13,243,599	9,061,904	345,842
Clark	355	95,932,064	73,469,340	3,052,820	Montgomery	1,446	571,777,634	409,829,353	18,819,501
Clermont	292	81,659,933	64,493,509	2,706,907	Morgan	35	5,300,956	4,748,306	150,074
Clinton	93	32,316,208	26,367,697	1,221,409	Morrow	51	15,678,119	11,273,208	457,048
Columbiana	242	66,056,609	53,509,465	2,336,677	Muskingum	231	59,350,602	47,901,602	1,953,411
Coshocton	84	24,806,160	21,108,706	932,424	Noble	21	3,318,622	2,824,716	93,762
Crawford	146	36,103,625	27,447,900	1,024,916	Ottawa	109	24,596,495	19,819,034	731,373
Cuyahoga	3,708	1,568,921,908	1,124,575,775	53,161,202	Paulding	51	10,027,619	8,498,662	286,631
Darke	142	37,181,889	28,335,603	1,101,052	Perry	58	8,224,485	7,367,606	226,873
Defiance	104	22,144,741	17,768,400	613,130	Pickaway	106	36,436,080	31,580,008	1,522,026
Delaware	159	59,212,278	42,451,438	1,811,241	Pike	66	16,873,929	13,403,898	541,534
Erie	233	73,159,326	57,377,579	2,479,692	Portage	267	89,554,230	67,683,123	2,996,847
Fairfield	267	77,744,503	61,768,999	2,646,437	Preble	94	27,671,829	21,386,203	907,426
Fayette	79	21,047,886	16,773,224	669,877	Putnam	86	23,397,254	18,985,173	769,486
Franklin	1,926	861,516,935	671,508,452	34,157,320	Richland	288	86,153,656	63,376,556	2,556,705
Fulton	126	40,977,922	32,129,397	1,372,059	Ross	140	34,099,434	29,661,640	1,222,384
Gallia	70	15,033,024	12,770,432	500,815	Sandusky	167	44,166,357	36,471,888	1,477,224
Geauga	168	79,146,523	55,538,464	2,618,061	Scioto	161	44,915,092	34,023,280	1,417,805
Greene	302	108,966,857	80,477,108	3,637,454	Seneca	165	47,185,318	38,207,987	1,630,001
Guernsey	79	14,781,825	11,831,624	381,853	Shelby	119	28,528,780	22,826,069	844,699
Hamilton	2,345	1,361,386,523	1,005,829,081	53,244,496	Stark	962	368,153,342	274,969,513	13,032,495
Hancock	218	85,121,104	60,919,875	2,697,634	Summit	1,383	464,238,078	349,816,629	15,381,962
Hardin	93	23,373,432	18,882,959	750,624	Trumbull	590	160,070,367	118,330,924	4,858,242
Harrison	51	8,700,999	6,463,059	202,218	Tuscarawas	230	68,477,276	56,286,437	2,500,650
Henry	99	32,103,149	23,108,047	970,455	Union	81	39,296,155	34,636,220	1,813,722
Highland	100	16,586,079	12,798,793	384,573	Van Wert	116	39,998,725	32,182,312	1,450,676
Hocking	46	8,249,610	6,133,629	191,789	Vinton	22	5,138,199	3,241,592	108,651
Holmes	58	16,122,389	12,470,378	493,525	Warren	275	179,302,153	124,601,910	6,827,291
Huron	134	32,358,156	28,505,995	1,180,530	Washington	154	40,672,750	31,188,602	1,278,629
Jackson	66	11,506,852	9,063,355	306,436	Wayne	266	84,717,670	67,181,929	2,985,602
Jefferson	190	50,824,743	38,534,012	1,596,257	Williams	110	40,491,719	28,581,168	1,226,567
Knox	147	38,034,679	27,652,111	1,044,186	Wood	253	85,997,735	61,703,627	2,550,489
Lake	575	164,737,972	135,337,829	5,660,218	Wyandot	61	<u>18,815,247</u>	<u>15,577,145</u>	<u>655,839</u>
Lawrence	106	15,325,433	11,917,696	346,487					
Licking	336	92,812,394	75,649,419	3,177,040	Total	26,859	\$9,760,339,504	\$7,350,335,323	\$338,069,867

* Statistics are derived from returns on which audits were completed and final certificates were issued in fiscal year 1999. This data differs from Table 27 and 28 due to reporting complications.