

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 up to \$23,600 plus 7.0 percent on that portion of taxable value which exceeds \$500,000. Ohio also taxes nonresident estates on real and tangible personal property situated in Ohio. For dates of death prior to July 1, 2005, 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 (see **Recent Legislation**).

Total revenue produced by Ohio's estate tax amounted to \$304.6 million in Fiscal Year 2005, as shown in the table in this chapter. The table displays the breakdown of monies distributed to local governments and the remainder retained by the state.

Senate Bill 108, 123rd General Assembly, resulted in significant tax cuts to the Ohio estate tax. For dates of death on or after January 1, 2002, every estate receives a tax credit of \$13,900.

Taxpayer:

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

Tax Base:

1. Resident:

The net taxable estate is the value of a decedent's gross estate, less deductions (Ohio Revised Code 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. Excepted are 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:

- (a) Marital deduction, where there is a surviving spouse;
- (b) Funeral expenses and costs of administering the estate;
- (c) Outstanding and unpaid claims against the estate at time of the decedent's death;
- (d) Unpaid mortgage or other indebtedness against property where the value of that property is included in the gross estate valuation;

- (e) Charitable contributions; and
- (f) A maximum deduction not to exceed \$675,000, for a decedent's qualified interest in a family-owned business, for dates of death occurring on or before June 30, 2005 (see **Recent Legislation** section of this chapter).

2. Nonresident:

The nonresident estate tax base is comprised of real 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 for both nonresident estate and nonresident additional tax, if applicable, is determined by: (1) calculating tax which would be due from the estate, at a rate applicable to resident estates, if the 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 (Ohio Revised Code 5731.02):

Rates are generated through "taxable estate" brackets, as shown in the **Exhibit**. The rates range from not less than 2.0 percent to not more than 7.0 percent plus \$23,600.

Exhibit - Taxable Estate Brackets

For dates of death on or after January 1, 2002:		
If the net taxable estate is:		The tax shall be:
Over \$338,333 but not over \$500,000	\$13,900 plus 6% of the excess over \$338,333	
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	
For dates of death on or after January 1, 2001 but before January 1, 2002:		
If the net taxable estate is:		The tax shall be:
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	
For dates of death on or after July 1, 1968 but before January 1, 2001:		
If the net taxable estate is:		The tax shall be:
Not over \$40,000		2% of the net taxable estate
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	

Filing Requirements (R.C. 5731.21):

For dates of death prior to January 1, 2001, estates with gross values over \$25,000 were required to file an estate tax return.

For dates of death on or after January 1, 2001 through December 31, 2001, estates with gross values over \$200,000 were required to file an estate tax return.

For dates of death on or after January 1, 2002, estates with gross values over \$338,333 are required to file an estate tax return.

Marital Deduction (R.C. 5731.15):

A marital deduction is allowed in an amount equal to the net value of any asset passing from the decedent to the surviving spouse to the extent that the asset is included in the value of the gross estate.

Tax Credits (R.C. 5731.02):

For estates with dates of death from July 1, 1983 through December 31, 2000, \$500 or the full amount of the tax, whichever was less.

For estates with dates of death from January 1, 2001 through December 31, 2001, \$6,600 or the full amount of the tax, whichever was less.

For estates with dates of death on or after January 1, 2002, \$13,900 or the full amount of the tax, whichever is less.

Special Provisions

1. The Ohio additional tax (R.C. 5731.18) is a pick-up tax that captures any unused portion of the allowable federal estate tax credit for state death taxes paid. The additional tax comes into play where the federal credit allowed for state death taxes actually exceeds the Ohio basic estate tax assessed. In these instances, the additional tax picks up the difference between the federal estate tax credit for state death taxes and the basic state estate tax liability (inclusive of any estate taxes paid to Ohio, any other U.S. state, territory, or the District of Columbia). For dates of death occurring on or after July 1, 2005, House Bill 66, 126th General Assembly, constructively repeals the Ohio additional tax (see **Recent Legislation** section of this chapter).
2. An alternate valuation date (R.C. 5731.01) may be elected, which is the date six months after the decedent's death, or, in the case of the property's earlier disposition, on such dates of disposition. If the alternate valuation date is elected, the election is required to be made within one year from the time the return is required to be filed.
3. Under certain conditions, an extension of time to pay Ohio estate tax because of undue hardship (R.C. 5731.25) 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 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. A qualified farm property valuation and recapture provision (R.C. 5731.011) applies to some estates. Under certain conditions, an estate may elect to have farm property that passes 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 realized 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.

Filing and Payment Dates:

In general, as follows:

Tax Return (R.C. 5731.21) —

To be filed within nine months of the decedent's death with the probate court of the county in which the estate is administered, unless an extension is granted. However, an automatic six-month extension is granted to all estates.

Tax Payment (R.C. 5731.23) —

Due within nine months of the decedent's death, regardless of any extension of time to file, to the treasurer of the county in which the decedent resided.

Disposition of Revenue (R.C. 5731.48-5731.51):

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, the domicile of the decedent is determinative. In the case of intangibles of a nonresident 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.

For estates with dates of death on or after January 1, 2002, 80 percent of gross estate tax revenues is distributed to the municipal corporations or townships in which the tax originates and 20 percent (less costs of administration) is distributed to the state General Revenue Fund.

Administration (R.C. 5731.44, 5731.45, 5731.46):

The Tax Commissioner is responsible for administration of the estate tax. 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

Amended Substitute House Bill 66, 126th General Assembly (FY 2006-2007 biennium budget bill, effective July 1, 2005).

R.C. 5731.01(F):

A general definition of the Internal Revenue Code was adopted for purposes of Ohio estate tax law.

R.C. 5731.18:

The additional tax statute was amended to incorporate any federal changes made by Congress to the Internal Revenue Code as of June 30, 2005. Since the federal credit for state death taxes was repealed, the state additional estate tax is eliminated for all decedents who die on or after July 1, 2005. A temporary credit was created (uncodified R.C. 557.03) so that this change can be incrementally retroactive to January 1, 2002.

R.C. 5731.181:

The generation-skipping transfer tax statute was amended to incorporate any changes made by Congress to the Internal Revenue Code as of June 30, 2005. Since the federal credit for generation-skipping transfers was

terminated, the state generation-skipping transfer tax was terminated for all taxable distributions and taxable terminations occurring on or after July 1, 2005.

R.C. 5731.20:

The estate tax deduction for qualifying family-owned business interests was repealed effective for decedents' dates of death occurring on or after July 1, 2005.

R.C. 5703.47 and 5731.23:

Through June 30, 2005, the "federal short-term rate" plus 3.0 percent was used to calculate the interest owing on both underpayments and overpayments of Ohio estate tax. Effective July 1, 2005, the "federal short-term rate" will be used without adjustment. Accordingly, any portion of estate tax that is subject to interest was reduced by 3.0 percent effective July 1, 2005.

R.C. 5731.41:

In addition to the undivided inheritance or estate tax fund in their respective county treasury, county auditors were authorized to use revenue from the county real estate assessment fund for estate tax enforcement.

Table 1
Estate Tax Collections and Distributions, Fiscal
Years 2001 - 2005 (figures in millions)

Fiscal Year	Total Collections	State General Revenue Fund*	Local Governments*
2001	\$451.6	\$166.0	\$285.6
2002	375.5	116.3	259.2
2003	357.7	100.8	256.9
2004	290.3	64.2	226.1
2005	304.6	60.4	240.5

* State General Revenue Fund figures are based on actual receipts reported by the Office of Budget and Management. Local government figures represent a liability because it is based on the certification of the local share (including fees) from the semi-annual settlements that occur each year. The state share was 36% from July 1, 1983 to December 31, 2000; the local share was 64% during this same period. From Jan. 1, 2001, to December 31, 2001, the state received 30% while the local share was 70%. Effective Jan. 1, 2002, the state share decreased to 20% and the local share increased to 80%.

Table 2
Distribution of Taxable Estates, Gross and Net Values, and Tax Liability by Net Taxable Value Brackets, Fiscal Year 2005
(Resident Estates Only)

Net Taxable Value	Number of Estates	Aggregate Gross Value	Aggregate Net Taxable Value	Aggregate Tax Liability
Under \$40,000	82	\$4,833,297	\$2,579,969	\$13,599
40,001 - 100,000	198	22,481,496	13,468,321	228,350
100,001 - 200,000	147	31,335,307	21,256,060	571,442
200,001 - 300,000	148	52,885,108	36,376,653	912,233
300,001 - 500,000	2,481	1,258,535,524	1,023,792,724	12,923,264
500,001 - 1,000,000	3,185	2,951,803,033	2,206,777,614	75,553,733
Over \$1,000,000	1,274	3,467,703,045	2,556,824,853	147,980,140
Total	7,515	\$7,789,576,809	\$5,861,076,194	\$238,182,760

Table 3
Number of Estates, Aggregate Gross and Net Taxable Values, and
Tax Liability, by County of Probate, Fiscal Year 2005*
(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	12	\$8,170,943	\$6,698,546	\$214,384	LOGAN	29	\$18,118,495	\$16,615,016	\$589,062
ALLEN	73	49,908,280	45,053,130	1,529,937	LORAIN	149	126,875,923	98,791,089	3,482,455
ASHLAND	24	18,856,754	16,459,117	591,938	LUCAS	305	333,048,139	242,960,870	9,772,430
ASHTABULA	35	26,818,669	21,236,764	686,407	MADISON	37	27,893,717	23,743,278	894,608
ATHENS	21	18,633,171	16,256,013	617,676	MAHONING	147	576,209,082	188,380,311	9,929,594
AUGLAIZE	35	31,729,063	25,343,469	918,687	MARION	35	25,186,420	22,997,497	863,509
BELMONT	48	44,692,326	34,099,040	1,380,979	MEDINA	84	69,280,468	63,086,172	2,462,838
BROWN	21	17,257,788	15,345,383	598,302	MEIGS	5	3,247,730	3,124,173	93,469
BUTLER	157	142,617,948	122,333,400	4,816,601	MERCER	25	15,342,677	13,991,122	390,398
CARROLL	17	20,850,593	8,732,775	257,951	MIAMI	65	54,771,455	42,868,285	1,504,730
CHAMPAIGN	24	28,069,628	19,463,693	774,080	MONROE	6	3,496,315	3,307,546	82,409
CLARK	82	75,587,330	67,160,306	2,774,417	MONTGOMERY	392	368,742,698	288,210,819	11,175,089
CLERMONT	79	66,995,744	55,530,883	2,061,041	MORGAN	7	6,950,669	6,497,761	302,234
CLINTON	31	29,955,484	23,468,230	937,754	MORROW	20	12,363,882	10,924,769	318,645
COLUMBIANA	45	53,295,218	44,779,240	2,109,088	MUSKINGUM	43	31,946,708	28,424,119	1,006,402
COSHOCTON	25	30,999,807	16,983,137	588,676	NOBLE	6	3,704,705	2,919,499	55,067
CRAWFORD	38	25,061,202	23,387,724	744,886	OTTAWA	46	33,101,834	29,101,232	1,030,623
CUYAHOGA	1,042	1,037,518,188	819,323,423	33,121,544	PAULDING	9	6,057,244	5,795,976	214,588
DARKE	58	46,470,154	39,447,151	1,435,247	PERRY	16	10,576,751	9,785,011	325,432
DEFIANCE	22	18,603,286	15,732,970	601,750	PICKAWAY	29	27,578,187	23,747,823	1,106,192
DELAWARE	86	84,203,389	68,898,406	2,845,747	PIKE	12	6,987,145	6,687,085	193,547
ERIE	70	73,774,819	55,266,037	2,182,971	PORTAGE	79	71,462,732	60,775,158	2,535,818
FAIRFIELD	76	57,538,188	49,198,059	1,721,713	PREBLE	29	23,362,800	21,256,298	826,102
FAYETTE	32	27,154,073	17,808,661	674,622	PUTNAM	27	18,917,977	16,028,378	540,606
FRANKLIN	624	682,436,740	530,123,595	22,763,396	RICHLAND	80	70,331,612	56,656,310	2,138,882
FULTON	47	27,307,735	25,498,342	851,169	ROSS	38	33,952,572	25,713,282	878,411
GALLIA	10	8,374,485	6,782,068	246,692	SANDUSKY	66	40,843,773	35,942,453	1,007,555
GEAUGA	90	91,162,506	79,170,584	3,439,587	SCIOTO	33	29,222,125	25,316,837	976,210
GREENE	94	84,503,651	63,153,369	2,257,720	SENECA	44	31,176,333	26,148,150	899,707
GUERNSEY	18	15,854,311	14,569,521	618,178	SHELBY	36	25,638,543	23,129,471	793,767
HAMILTON	784	975,297,268	688,431,817	29,501,105	STARK	206	261,931,229	148,994,440	5,622,480
HANCOCK	77	70,905,070	56,719,234	2,169,991	SUMMIT	364	337,554,616	258,425,804	9,610,871
HARDIN	32	21,574,004	18,950,122	683,146	TRUMBULL	131	114,361,284	99,299,748	4,105,988
HARRISON	7	73,797,812	70,958,141	4,841,001	TUSCARAWAS	50	33,951,388	31,117,846	1,051,522
HENRY	40	25,246,839	18,526,135	635,814	UNION	34	26,057,894	22,443,503	850,738
HIGHLAND	25	18,492,857	17,005,363	600,220	VAN WERT	31	21,139,397	18,557,754	557,750
HOCKING	13	6,925,261	5,721,811	146,791	VINTON	3	2,023,289	1,880,250	73,344
HOLMES	13	9,930,255	7,119,208	176,737	WARREN	98	78,823,038	66,175,023	2,387,913
HURON	45	26,266,703	23,268,940	668,261	WASHINGTON	27	69,360,227	62,725,948	3,746,708
JACKSON	5	7,368,062	5,738,670	285,053	WAYNE	93	115,269,057	103,875,153	5,176,013
JEFFERSON	44	32,673,479	29,759,148	1,216,721	WILLIAMS	33	22,262,859	20,552,207	671,013
KNOX	33	28,741,418	21,942,516	772,510	WOOD	104	95,647,985	79,354,210	3,108,184
LAKE	143	172,077,127	135,207,535	6,057,693	WYANDOT	20	15,585,622	13,269,014	528,421
LAWRENCE	7	3,650,802	3,142,253	90,131					
LICKING	83	63,044,414	54,314,573	1,871,302	Total	7,480	\$7,780,749,438	\$5,853,705,195	\$237,960,941

* Statistics are derived from returns on which audits were completed and final certificates were issued in fiscal year 2005.
This data differs from Table 2 due to reporting complications.