

# 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.

Total revenue produced by Ohio's estate tax amounted to \$272.7 million in Fiscal Year 2006, 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.

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;

## EXHIBIT— ESTATE TAX TAXABLE ESTATE BRACKETS

NET TAXABLE ESTATE	TAX RATE
<b>For dates of death on or after January 1, 2002:</b>	
<i>If the net taxable estate is:</i>	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
<b>For dates of death on or after January 1, 2001 but before January 1, 2002:</b>	
<i>If the net taxable estate is:</i>	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
<b>For dates of death on or after July 1, 1968 but before January 1, 2001:</b>	
<i>If the net taxable estate is:</i>	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

- (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**).

## 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.

## 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.



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, 126<sup>th</sup> General Assembly, constructively repealed the Ohio additional tax (see **Recent Legislation**).
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 & 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, 126<sup>th</sup> 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 are now authorized to use revenue from the county real estate assessment fund for estate tax enforcement.

TABLE 1  
ESTATE TAX COLLECTIONS AND DISTRIBUTIONS  
FISCAL YEARS 2002 - 2006 (FIGURES IN MILLIONS)

Fiscal Year	Total Collections	State General Revenue Fund*	Local Governments*
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
2006	272.7	54.1	218.6

\* 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%. For fiscal year 2006, the "total collections" and "local governments" figures do not include the February 2006 settlement amounts for Mercer, Pickaway, and Vinton counties.

TABLE 2  
DISTRIBUTION OF TAXABLE ESTATES, GROSS AND NET VALUES, AND  
TAX LIABILITY BY NET TAXABLE VALUE BRACKETS,  
FISCAL YEAR 2006  
(RESIDENTS ESTATES ONLY)

Net Taxable Value	Number of Estates	Aggregate Gross Value	Aggregate Net Taxable Value	Aggregate Tax Liability
Under \$40,000	62	\$2,925,515	\$1,917,570	\$10,351
\$40,001 - 100,000	129	11,048,031	8,343,989	136,720
100,001 - 200,000	77	14,434,463	11,531,687	315,468
200,001 - 300,000	80	29,088,352	19,422,509	348,025
300,001 - 500,000	2,504	1,289,342,721	1,029,632,594	12,008,456
500,001 - 1,000,000	3,053	3,077,118,715	2,113,265,235	71,419,467
Over 1,000,000	1,801	5,525,191,001	4,448,694,475	266,335,213
<b>Total</b>	<b>7,706</b>	<b>\$9,949,148,798</b>	<b>\$7,632,808,059</b>	<b>\$350,573,700</b>

## ESTATE TAX

TABLE 3

NUMBER OF ESTATES, AGGREGATE GROSS AND NET TAXABLE VALUES, AND TAX LIABILITY,  
BY COUNTY OF PROBATE,  
FISCAL YEAR 2006\* (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	9	\$34,078,677	\$21,886,881	\$1,305,842	LOGAN	22	\$13,434,918	\$12,438,374	\$361,605
ALLEN	73	103,243,105	64,879,918	2,723,065	LORAIN	168	203,681,094	118,049,918	4,234,412
ASHLAND	40	32,040,283	28,272,543	1,009,747	LUCAS	270	308,032,796	249,366,580	10,946,777
ASHTABULA	37	24,466,460	21,518,457	629,364	MADISON	26	19,929,741	17,901,006	654,140
ATHENS	23	24,402,687	18,165,315	720,518	MAHONING	164	239,812,919	158,534,716	7,232,814
AUGLAIZE	35	25,464,113	23,010,343	773,833	MARION	40	31,312,975	27,285,342	918,623
BELMONT	41	43,020,873	36,442,585	1,583,695	MEDINA	77	74,625,223	59,635,137	2,272,244
BROWN	24	20,939,234	19,654,635	776,418	MEIGS	8	6,030,893	4,928,638	166,704
BUTLER	140	351,816,507	150,358,313	7,129,354	MERCER	30	47,776,953	27,401,470	1,166,325
CARROLL	13	14,229,416	13,803,644	645,045	MIAMI	48	53,250,512	33,353,137	1,167,941
CHAMPAIGN	34	26,387,455	23,977,397	855,554	MONROE	8	4,333,382	4,105,075	88,597
CLARK	82	102,410,828	89,806,300	4,277,940	MONTGOMERY	343	477,294,949	315,518,175	13,734,011
CLERMONT	92	131,088,190	101,267,105	4,852,393	MORGAN	5	3,990,451	3,743,271	138,614
CLINTON	26	26,819,991	16,481,259	549,214	MORROW	12	8,854,397	7,684,848	266,238
COLUMBIANA	42	49,325,516	40,134,052	1,778,839	MUSKINGUM	30	30,871,610	22,344,080	872,762
COSHOCTON	24	22,056,077	19,379,401	795,974	NOBLE	5	5,088,497	3,774,555	140,307
CRAWFORD	34	37,799,065	28,416,173	1,175,200	OTTAWA	50	45,095,563	37,239,193	1,405,734
CUYAHOGA	1,105	1,648,920,714	1,263,504,364	61,843,139	PAULDING	14	34,956,255	25,363,154	1,443,938
DARKE	51	34,186,244	31,770,042	1,033,399	PERRY	6	3,659,101	3,510,628	112,528
DEFIANCE	36	28,378,251	24,541,088	835,394	PICKAWAY	28	25,949,523	22,216,664	904,561
DELAWARE	68	183,980,084	61,107,981	2,647,865	PIKE	15	15,491,290	14,549,812	641,227
ERIE	60	66,827,235	58,533,261	2,641,710	PORTAGE	81	76,821,498	66,280,484	2,698,296
FAIRFIELD	72	64,205,053	54,109,341	2,051,523	PREBLE	25	16,832,833	14,732,665	477,856
FAYETTE	12	26,580,814	25,487,526	1,485,389	PUTNAM	26	20,871,651	18,756,976	680,752
FRANKLIN	636	740,091,949	634,932,373	29,115,705	RICHLAND	58	190,725,953	41,069,350	1,435,403
FULTON	32	27,812,241	24,356,192	983,592	ROSS	40	32,669,081	27,555,467	929,876
GALLIA	16	21,168,760	19,635,383	1,018,090	SANDUSKY	51	49,441,980	36,043,440	1,266,126
GEAUGA	72	96,216,569	83,333,168	4,062,081	SCIOTO	19	11,095,851	10,250,980	296,324
GREENE	104	114,562,799	94,970,487	4,112,262	SENECA	45	38,216,845	27,221,410	799,206
GUERNSEY	12	8,938,528	8,332,251	285,709	SHELBY	37	42,855,203	32,322,831	1,363,743
HAMILTON	867	1,708,298,510	1,424,355,575	78,604,863	STARK	219	203,250,104	182,844,452	7,596,781
HANCOCK	76	89,979,179	79,445,623	3,738,450	SUMMIT	401	424,752,088	366,546,489	15,932,823
HARDIN	25	16,237,917	15,232,626	496,974	TRUMBULL	108	114,948,536	95,422,136	4,113,251
HARRISON	8	6,479,717	6,138,990	242,220	TUSCARAWAS	54	50,162,450	39,270,787	1,427,584
HENRY	21	13,501,511	10,172,222	233,862	UNION	25	19,622,740	18,128,065	651,769
HIGHLAND	28	30,171,052	28,421,086	1,339,901	VAN WERT	34	22,269,188	17,121,933	427,290
HOCKING	16	16,872,834	15,137,678	661,550	VINTON	5	5,939,647	5,517,307	279,553
HOLMES	23	15,917,583	14,937,670	477,067	WARREN	61	64,557,592	52,939,269	2,187,381
HURON	38	46,805,035	39,182,850	1,804,916	WASHINGTON	26	46,030,768	37,943,875	2,004,276
JACKSON	8	10,029,042	4,543,652	119,340	WAYNE	60	77,777,659	68,693,450	3,359,404
JEFFERSON	42	41,210,195	36,234,007	1,576,253	WILLIAMS	24	22,480,925	18,871,811	729,304
KNOX	35	30,892,031	27,542,729	1,052,650	WOOD	85	92,525,195	71,961,232	2,981,287
LAKE	163	199,067,949	175,820,507	8,448,073	WYANDOT	27	26,513,715	20,616,956	803,996
LAWRENCE	10	9,489,943	7,065,560	255,708					
LICKING	75	112,194,261	90,400,575	4,514,091	<b>TOTAL</b>	<b>7,360</b>	<b>\$9,782,439,021</b>	<b>\$7,515,754,266</b>	<b>\$348,576,154</b>

\* Statistics are derived from returns on which audits were completed and final certificates were issued in fiscal year 2006.

This data differs from Table 2 due to reporting complications.