

## ESTATE TAX

### TAXPAYER

The estate representative (executor, administrator, trustee, etc.) or person in possession of taxable property.

### TAX BASE

The net taxable estate equals the value of the gross estate less allowable deductions.

### RATES

<b>Net Taxable Estate</b>	<b>Tax Rate</b>
0 - \$40,000	2.0 percent of taxable estate
\$40,000 - 100,000	\$800 + 3.0 percent of excess over \$40,000
100,000 - 200,000	2,600 + 4.0 percent of excess over 100,000
200,000 - 300,000	6,600 + 5.0 percent of excess over 200,000
300,000 - 500,000	11,600 + 6.0 percent of excess over 300,000
500,000 and over	23,600 + 7.0 percent of excess over 500,000

### MAJOR EXEMPTIONS

Marital Deduction:

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

Other Deductions:

Certain items eligible to be deducted from the gross estate prior to calculating tax liability include, but are not limited to: funeral expenses, costs of administering the estate, unpaid debts against the estate, charitable bequests, portions of an annuity or other death benefit plan contributed by an employer, and qualified family-owned business interests.

### REVENUE (IN MILLIONS) (1)

<b>Fiscal Year</b>	<b>Local Governments</b>	<b>General Revenue Fund</b>	<b>Total</b>
2000	\$294.7	\$140.0	\$434.7
2001	285.6	166.0	451.6
2002	259.2	116.3	375.5
2003	256.9	100.8	357.7

**Notes:** (1) 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 they are based on the certification of the local share (including fees) from the semi-annual settlements that occur each year.

### **DISPOSITION OF REVENUE**

Estates with dates of death on or after January 1, 2002: 80 percent to the municipal corporation or township of origin; 20 percent, less costs of local administration, to the state General Revenue Fund.

### **PAYMENT DATES**

The estate tax return is to be filed within nine months of the decedent's death. However, an automatic six-month extension is granted to all estates. Payment of the estate tax is due at the expiration of nine months from the date of the decedent's death to the treasurer of the county where the estate tax return was filed.

### **SPECIAL PROVISIONS/CREDITS**

For estates with a date of death on or after January 1, 2002, the credit is equal to the lesser of \$13,900 or the amount of estate tax owed. This effectively exempts the first \$338,333 of the taxable estate from taxation.

### **Additional Estate Tax:**

Tax levied in addition to the basic estate tax, to take advantage of a federal law which allows a credit against federal estate tax liability for state death taxes paid. In general, the amount of additional tax due and payable is the difference between the maximum federal credit allowed prior to the Economic Growth and Tax Relief Reconciliation Act of 2001 minus state death taxes paid to Ohio and other states, U.S. territories, and the District of Columbia.

### **Generation-Skipping Tax:**

Tax levied to take advantage of a federal law allowing a state credit against federal tax liability on generation-skipping transfers of property. (Generation-skipping tax is a tax on transfers of property and trust to each generation, i.e., a trust established for a child that is transferred to a grandchild is taxed at each transfer.) The tax is levied on every generation-skipping transfer of property having a situs in Ohio that occurs at the same time as, and as a result of, the death of an individual. The Ohio tax is levied in an amount equal to the federal credit. The credit shall not exceed 5.0 percent of the amount of the generation-skipping transfer tax imposed. In the case of a direct skip, i.e., a property or trust transferred directly to a grandchild, the tax is not levied on the middle generation.

### SECTIONS OF OHIO REVISED CODE

Chapter 5731.

### RESPONSIBILITY FOR ADMINISTRATION

The Tax Commissioner administers the estate tax. The tax is collected locally by the treasurer of the county in which the decedent resided. Tax due for a nonresident decedent owning real property or tangible personal property in Ohio is paid to the county where the return is filed. This is generally the county in which the majority of the real property or tangible personal property is located.

### HISTORY OF MAJOR CHANGES

- 1893 • First Ohio death tax enacted — an inheritance tax levied on the succession of property from a decedent's estate.
- 1968 • Inheritance tax repealed and an estate tax levied on taxable value of the estate.
- 1976 • Surviving spouse exemption raised from \$20,000 to \$30,000.
- 1979 • Resident decedent estates with gross value under \$5,000 exempted from filing returns.
- 1982 • Resident decedent estates with gross value under \$10,000 exempted from filing returns, and all previous general and family exemptions doubled in amount.
- 1983 • Tax credit and marital deduction adopted, family and general exemptions repealed, and resident decedent estates with gross value under \$25,000 exempted from filing returns.
- 1993 • Unlimited marital deduction became effective July 1, 1993.
- 1997 • Effective March 7, 1997, excluded from taxable estate that portion of an annuity or other death benefit plan contributed by an employer.

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- 1999
- Increased from \$25,000 to \$40,000 the amount of property or money that a surviving spouse and/or children of the decedent can claim as an allowance for support.
  - Increased 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 the estate.
- 2000
- Two year, phased-in increase of the estate tax credit from \$500 to \$13,900.
  - Two year, phased-in increase of the local share of estate tax revenue from 64 percent to 80 percent, lowering the state share from 36 percent to 20 percent.
  - Deduction created for qualifying family-owned business interests.
  - A trustee's duty to distribute income at least annually to a surviving spouse from an IRA marital deduction trust satisfied so long as the language is in place to require that distribution.
- 2001
- Adoption of provisions (where certain circumstances apply) increasing from nine months to 13 months the timeframe within which an executor or administrator, after the date of their appointment, shall collect decedent's assets and complete the estate administration.

### COMPARISONS WITH OTHER STATES (AS OF 12/03)

#### Ohio

**Rates from 2.0 percent where taxable estate is less than \$40,000, to \$23,600 plus 7.0 percent of excess over \$500,000 for estates over \$500,000.**

**Note: *The estate tax credit effectively exempts the first \$338,333 of estate value from taxation.***

Unlike **Ohio**, some states, including **Indiana, Kentucky, New Jersey**, and **Pennsylvania** levy inheritance taxes rather than estate taxes. An inheritance tax is based upon the succession of property transferred to an individual and the relationship of that individual to the decedent, rather than upon the value of the estate itself.

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Other states, including **California, Florida, Michigan, Texas,** and **West Virginia,** levy only a pick-up tax equivalent to the current federal credit.

The following states have de-coupled their estate tax from the federal code: **Illinois, Massachusetts, New Jersey, New York,** and **Pennsylvania.**

