

## 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

Net Taxable Estate	Tax Rate
<b>For dates of death on or after January 1, 2002:</b>	
<b><i>If the net taxable estate is: The tax shall be:</i></b>	
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:**

<b><i>If the net taxable estate is: The tax shall be:</i></b>	
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:**

<b><i>If the net taxable estate is: The tax shall be:</i></b>	
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

**Estate Tax****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, as well as that portion of an annuity or other death benefit plan contributed by an employer or former employer of the decedent.

**Revenue (In Millions)\***

<b>Fiscal Year</b>	<b>Local Governments</b>	<b>General Revenue Fund</b>	<b>Total</b>
2001	\$285.6	\$166.0	\$451.6
2002	259.2	116.3	375.5
2003	256.9	100.8	357.7
2004	226.1	64.2	290.3
2005	240.5	60.4	300.9

**Note:** \*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% to the municipal corporation or township of origin;
- 20%, less costs of local administration, to the state General Revenue Fund.

Effective for dates of death on or after June 29, 2004, local governments share in the costs of administering the estate tax in the same 80/20 split as the disposition of estate tax revenue.

**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

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**Estate Tax**

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 now repealed federal law which allowed a credit against federal estate tax liability for state death taxes paid. Because the additional estate tax statute has been amended to incorporate changes made by Congress to the Internal Revenue Code as of June 30, 2005, the state additional estate tax is constructively repealed for all decedents who die on or after July 1, 2005.

*Generation-Skipping Tax:*

Tax levied to take advantage of a now repealed federal law which allowed a state credit against federal tax liability on generation-skipping transfers of property. Because the generation-skipping transfer tax statute has been amended to incorporate changes made by Congress to the Internal Revenue Code as of June 30, 2005, the state generation-skipping transfer tax is constructively repealed for all taxable distributions and taxable terminations occurring on or after July 1, 2005.

**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.

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**Estate Tax****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.
- 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% to 80%, lowering the state share from 36% to 20%.
  - Deduction created for qualifying family-owned business interests.

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- A trustee's duty to distribute income at least annually to a surviving spouse from an IRA marital deduction trust is 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.
  
- 2002 • Provisions adopted that shortened the amount of time that another person must survive a decedent in order to inherit; also expanded the presumptive order of death to include probate and nonprobate transfers.
  
- 2003 • Procedures enacted for distribution of a trust estate when a probate court terminates a trust with a fair market value of less than \$100,000; also expanded the prohibition against trusts accumulating more than one year of income interest granted to a surviving spouse where that income interest is eligible for a qualified terminable interest property deduction.
  
- 2004 • Requirement expanded for sharing of administrative costs of estate tax between local governments and the state in proportion to their respective share of gross estate tax revenues; local governments required to pay 80%, and the state 20%.
  
- 2005 • Adoption of a general definition of the Internal Revenue Code for purposes of Ohio estate tax law.
  - Constructive repeal of the Ohio additional estate tax. Creation of a temporary credit so that this change can be incrementally retroactive to January 1, 2002.
  - Constructive repeal of the Ohio generation-skipping transfer tax. The termination of the state generation-skipping transfer tax applies to all taxable distributions and taxable terminations occurring on or after July 1, 2005.
  - The estate tax deduction for qualifying family-owned business interests repealed effective for decedents' dates of death occurring on or after July 1, 2005.
  - Effective July 1, 2005, interest owing on both underpay-

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**Estate Tax**

ments and overpayments of estate tax calculated based on the “federal short-term rate” without adjustment. Any interest calculated on the estate tax is consequently reduced by 3.0%.

- County auditors, in addition to the undivided inheritance or estate tax fund, authorized to use revenue from the county real estate assessment fund for estate tax enforcement.

**Comparisons with Other States (As of 03/06)**

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.

Other states, including **California, Florida, Michigan, Texas, and West Virginia**, levy a pick-up tax equivalent to the current federal credit. Consequently, effective January 1, 2005 with the total repeal of the federal credit, these states currently have no death tax.

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

