

Estate Tax

Taxpayer

The tax is paid by the administrator, executor, or other estate representative in possession of the property subject to tax.

Tax Base

The tax applies to the net taxable estate, which equals the value of the gross estate less allowable deductions.

Rates

Rates are tiered in the brackets shown below. Estates with a net taxable value of \$338,333 or less are effectively exempt from the tax because of the availability of a non-refundable estate credit of up to \$13,900. The effect of this credit, which applies to dates of death on or after Jan. 1, 2002, is also shown in the table below.

Net taxable estate	Tax before credit	Tax after credit
\$0 to \$40,000	2% of the net taxable estate	No tax
\$40,000 to \$100,000	\$800 plus 3% of excess over \$40,000	No tax
\$100,000 to \$200,000	\$2,600 plus 4% of excess over \$100,000	No tax
\$200,000 to \$300,000	\$6,600 plus 5% of excess over \$200,000	No tax
\$300,000 to \$500,000	\$11,600 plus 6% of excess over \$300,000	6% of excess over \$338,333
Over \$500,000	\$23,600 plus 7% of excess over \$500,000	\$9,700 plus 7% of excess over \$500,000

Major Exemptions

A marital deduction is allowed 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 available before the calculation of tax liability include funeral expenses, costs of administering the estate, unpaid debts against the estate, charitable bequests, and that portion of an annuity or other death ben-

efit plan contributed by an employer or former employer of the decedent.

Revenue

(In Millions)

Fiscal Year	Local Governments	General Revenue Fund	Total
2007	\$287.3	\$72.1	\$359.4
2008	255.7	61.4	317.1
2009	269.4	64.4	333.8
2010	230.8	55.0	285.8
2011	302.1	72.1	374.2

Disposition of Revenue

For estates with dates of death on or after June 29, 2004, revenue is distributed as follows, with administrative costs shared equally:

- 80 percent to the municipal corporation or township of origin;
- 20 percent to the state General Revenue Fund.

For estates with dates of death on or after Jan. 1, 2002 but before June 29, 2004, revenue was distributed in the same 80/20 split, but administrative costs were deducted from the state share.

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 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/Legislation/Credits

Repeal of Estate Tax:

The Ohio Estate Tax has been repealed for individuals dying on or after January 1, 2013 (see House Bill 153, 129th General Assembly). Also, House Bill 153 provides closure of the former Ohio Inheritance Tax, by requiring all claims and inquiries regarding the inheritance Tax to be submitted to the Department of Taxation prior to January 1, 2013.

Estate tax credit:

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

Additional Estate Tax:

R.C. 5731.18 imposes an additional estate tax to the extent that federal estate tax laws permit a full credit for estate tax paid to the state of Ohio. This additional estate tax provision does not increase overall liability for Ohio taxpayers, since it only applies to the extent that the federal credit fully reduces federal estate tax liability, dollar for dollar. Many states have similar tax provisions, known as “pick up” or “sponge” taxes.

In 2001, Congress enacted the Economic Growth and Tax Relief Reconciliation Act (EGTRRA), which temporarily reduced the value of the federal credit to zero starting on Jan. 1, 2005. Congress enacted the 2010 Tax Relief Act, which extended this treatment through December 31, 2012. Because Ohio’s estate tax laws incorporate all changes made by Congress to the Internal Revenue Code as of December 31, 2010, the state additional estate tax no longer imposes state liability on estates with a date of death on or after July 1, 2005.

Generation-Skipping Tax:

R.C. 5731.181 imposes a tax on generation-skipping transfers of property and trusts to the extent that federal taxes on such transfers include a dollar for dollar credit for state taxes imposed on such transfers.

This federal credit for state taxes on generating-skipping transfers was temporarily suspended by EGTRRA and later by the 2010 Tax Relief Act. Because Ohio’s estate tax laws incorporate all changes made by Congress to the Internal Revenue Code as of December 31, 2010, the state generation-skipping transfer tax ceased to apply to 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. The 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

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| 1893 | General Assembly enacts a 3.5 percent tax on collateral inheritances in excess of \$10,000. A year later, the rate increased to 5 percent and exemption reduced to \$200. The state receives 75 percent of revenue, with 25 percent going to the county where the tax is collected. |
| 1894 | Legislature enacts tax on direct inheritances in excess of \$20,000, with graduated rates of up to 5 percent on the amount in excess of \$1 million. A year later, the Ohio Supreme Court rules this tax unconstitutional. |
| 1904 | General Assembly enacts 2 percent tax on all direct inheritances in excess of \$3,000. Two years later, lawmakers repeal the tax. |
| 1912 | Voters of Ohio approve a constitutional amendment explicitly permitting the taxation of inheritances or estates at uniform or graduated rates. |
| 1919 | General Assembly replaces 26-year-old collateral inheritance tax with a new graduated inheritance tax. Rates range from 1 to 10 percent. |
| 1968 | Legislature repeals inheritance tax and replaces it with an estate tax effective July 1, 1968. |
| 1983 | Family and general exemptions are repealed in favor of a marital deduction and a \$500 credit that shields the first \$25,000 of a net taxable estate from taxation, effective July 1, 1983. |
| 1993 | Unlimited marital deduction became effective July 1, 1993. |
| 1997 | Effective March 7, 1997, that portion of an annuity or other death benefit plan contributed by an employer is excluded from the taxable estate. |

2000 General Assembly enacts a two-year phased-in increase of the estate tax credit from \$500 to \$13,900. A new revenue sharing formula is also phased-in over two years, with the local share increasing from 64 percent to 80 percent and the state share falling from 36 percent to 20 percent.

2004 Legislature revises sharing of administrative costs to match revenue sharing formula; local governments required to pay 80 percent and the state 20 percent.

2005 Federal credits for state estate taxes and state-generation skipping taxes are temporarily suspended as part of the federal Economic Growth and Tax Relief Reconciliation Act of 2001; as a result, the Ohio additional estate tax and generation-skipping taxes cease to impose liability for all estates connected with dates of death on or after July 1, 2005.

2011 House Bill 153, 129th General Assembly, repeals the Ohio Estate Tax for individuals dying on or after January 1, 2013. House Bill 153 also legislates closure of the former Ohio Inheritance Tax, by requiring all claims and inquiries regarding the Inheritance Tax to be submitted to the Department of Taxation prior to January 1, 2013.

of some states maintain out-of-date definitions of the federal credit. These states include:

- **Massachusetts**, which imposes a sponge tax up to the maximum federal credit that existed as of Dec. 31, 2000, with a \$1 million exclusion.
- **New York**, which imposes a sponge tax up to the maximum federal credit that existed as of July 22, 1998, with a filing threshold of \$1 million.
- **New Jersey**, which imposes a sponge tax up to the maximum federal credit that existed as of Dec. 31, 2001, with a \$675,000 filing threshold.

For these states, a return of the federal credit for estate taxes paid to states will have no impact on the computation of state estate tax.

In addition to its sponge tax, **New Jersey** maintains a simplified state estate tax system that applies to those not filing federal estate taxes; the taxable value of the estate is reduced by \$60,000 and there is no tax on estates valued at less than \$615,000. The rate is between 4.8% and 37%. **New Jersey** also levies a separate inheritance tax.

In **Illinois**, for decedents in 2011 and 2012 an estate tax applies, with an exclusion of \$2 million. The rate is between 8.0% and 16.0%.

Comparisons with Other States

(As of August, 2011)

California, Florida, Michigan, Texas, and **West Virginia** have no estate tax. Three comparison states – **Indiana, Kentucky,** 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 upon the value of the estate itself.

Before the enactment of the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), many other states levied only a “sponge tax” that applied up to the value of the federal credit for estate taxes paid to states. In order to avoid the loss of this revenue that would accompany the 2005 temporary suspension of this federal credit, the laws