

Estate Tax

The Ohio estate tax was enacted in 1968 to replace a state inheritance tax, but its roots can be traced back to 1893, when the Ohio General Assembly first enacted an inheritance tax during the McKinley administration.

Under current law, the estates of residents with a net taxable value of \$338,333 or less are effectively exempt from the Ohio estate tax through a \$13,900 credit. A 6 percent tax rate applies to any net taxable value above that mark, up to \$500,000. A 7 percent rate applies to any net taxable value over \$500,000.

Ohio's estate tax generated \$359.4 million in revenue for Fiscal Year 2007. Most of the revenue – about \$287.3 million worth – was distributed to local governments. The balance was distributed to the state General Revenue Fund.

Taxpayer

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

Tax Base

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:

- marital deduction, where there is a surviving spouse;
- funeral expenses and costs of administering the estate;
- outstanding and unpaid claims against the estate at time of the decedent's death;
- unpaid mortgage or other indebtedness against property where the value of that property is included in the gross estate valuation; and
- charitable contributions.

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 on nonresident estates 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 set according to "taxable estate" brackets, as shown in the tables below.

For dates of death on or after January 1, 2002:

A credit of up to \$13,900 against estate tax liability means that estates with a net taxable value up to \$338,333 are effectively exempt from the tax. Other brackets, along with the effect of this credit, are shown below.

Net taxable estate	Tax before credit	Tax after credit
Over \$338,333 but not over \$500,000	\$13,900 plus 6% of the excess over \$338,333	6% of the excess over \$338,333
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	\$9,700 plus 7% of the excess over \$500,000

For dates of death on or after January 1, 2001 but before January 1, 2002:

A credit of up to \$6,600 against estate tax liability means that estates with a net taxable value up to \$200,000 are effectively exempt from the tax. Other brackets, along with the effect of this credit, are shown below.

Net taxable estate	Tax before credit	Tax after credit
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	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	\$5,000 plus 6% of the excess over \$300,000
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	\$17,000 plus 7% of the excess over \$500,000

For dates of death on or after July 1, 1983 but before January 1, 2001:

A credit of up to \$500 against estate tax liability means that estates with a net taxable value up to \$25,000 are effectively exempt from the tax. Other brackets, along with the effect of this credit, are shown below.

Net taxable estate	Tax before credit	Tax after credit
Over \$25,000 but not over \$40,000	2% of the net taxable estate	2% of the excess over \$25,000
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	\$300 plus 3% of the excess over \$40,000

Net taxable estate:	Tax before credit	Tax after credit
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	\$2,100 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	\$6,100 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	\$11,100 plus 6% of the excess over \$300,000
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000	\$23,100 plus 7% of the excess over \$500,000

Filing Requirements (R.C. 5731.21)

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

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

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

Deductions and credits

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 to the extent that the asset is included in the value of the gross estate. (R.C. 5731.15)

Other deductions:

Other expenses that may be deducted from a gross estate in order to arrive at a "net taxable estate" include funeral expenses and costs of administering the estate; outstanding and unpaid claims against the estate at time of the decedent's death; unpaid mortgage or other indebtedness against property where the value of that property is included in the gross estate valuation; and charitable contributions.

Credits:

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

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

For estates with dates of death on or after Jan. 1, 2002: \$13,900 or the full amount of the tax, whichever is less. (R.C. 5731.02)

Special Provisions

- The Ohio additional tax (R.C. 5731.18) was a pick-up tax that captured any unused portion of the allowable federal estate tax credit for state estate taxes paid. The additional tax came into play where the federal credit allowed for state estate taxes actually exceeded the Ohio basic estate tax assessed. In those instances, the additional tax picked up the difference between the

federal estate tax credit for state estate 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 repealed the Ohio additional tax (see **Recent Legislation**).

- 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.
- 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.
- 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

Tax Return – 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. (R.C. 5731.21)

Tax Payment – 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. (R.C. 5731.23)

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

For estates with dates of death on or after Jan. 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.

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 in-

tangible 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.

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 estate 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 Jan. 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 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 three percentage points 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 2003 - 2007
(figures in millions)

Fiscal Year	Total Collections	State General Revenue ¹	Local Governments ¹
2003	\$357.7	\$100.8	\$256.9
2004	290.3	64.2	226.1
2005	300.9	60.4	240.5
2006	272.0	54.1	217.9
2007	359.4	72.1	287.3

¹ State General Revenue Fund figures are based on actual receipts reported by the Office of Budget and Management. Local government figures represent the local government share of estate tax revenues (including local administrative fees) certified from the semi-annual settlements that occur each year. Effective January 1, 2002, the state share is 20 percent and the local share is 80 percent.

Table 2
Distribution of Taxable Estates, Gross and Net
Values, and Tax Liability
by Net Taxable Value Brackets:
Fiscal Year 2007
 (Resident Estates Only)

Net Taxable Value	Number of Estates	Aggregate Gross Value	Aggregate Net Taxable Value	Aggregate Tax Liability
Under \$40,000	29	\$1,733,070	\$876,088	\$5,522
\$40,001 - 100,000	66	5,476,008	4,428,722	74,462
100,001 - 200,000	51	8,871,661	7,292,534	194,802
200,001 - 300,000	37	10,738,342	9,160,080	203,904
300,001 - 500,000	2,325	1,277,289,346	956,564,701	10,578,782
500,001 - 1,000,000	2,920	2,490,020,129	2,018,746,267	67,964,739
Over \$1,000,000	1,595	8,271,517,244	3,836,370,192	228,384,813
Total	7,023	\$12,065,645,800	\$6,833,438,584	\$307,407,024

Note: Data shown here represent returns finalized by the Estate Tax Division during this fiscal year. This data differs from Table 3 due to reporting complications.



Table 3
Number of Estates, Aggregate Gross and Net Taxable Values, and Tax Liability,
by County of Probate:
Fiscal Year 2007¹
 (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	6	\$5,109,321	\$4,912,911	\$192,104	LOGAN	26	\$29,993,093	\$22,362,540	\$931,789
ALLEN	57	59,096,534	40,058,098	1,416,883	LORAIN	125	112,440,137	89,830,802	3,201,333
ASHLAND	33	22,804,046	20,921,367	643,020	LUCAS	258	274,495,163	220,792,408	9,072,219
ASHTABULA	33	27,017,767	24,666,113	935,339	MADISON	22	17,570,939	14,577,457	492,274
ATHENS	18	16,579,108	13,996,029	548,055	MAHONING	131	132,708,609	114,347,309	4,823,800
AUGLAIZE	36	25,875,924	23,221,640	727,028	MARION	41	39,335,235	25,332,714	759,737
BELMONT	32	29,272,383	24,961,824	961,875	MEDINA	82	76,024,237	69,798,386	2,857,220
BROWN	7	6,120,938	4,561,473	144,195	MEIGS	7	5,787,437	4,936,695	193,268
BUTLER	171	189,551,854	152,544,393	6,406,861	MERCER	40	39,565,274	30,969,089	1,171,669
CARROLL	9	9,642,979	7,155,519	276,406	MIAMI	50	50,412,150	42,209,548	1,711,020
CHAMPAIGN	14	14,300,135	11,454,276	452,256	MONROE	3	1,850,536	1,756,735	48,215
CLARK	79	75,713,439	62,976,962	2,432,343	MONTGOMERY	317	405,908,523	317,356,499	14,407,923
CLERMONT	63	58,057,989	49,554,173	1,936,303	MORGAN	4	2,281,450	2,176,941	67,931
CLINTON	29	24,678,752	18,761,405	629,682	MORROW	17	27,048,940	21,267,642	1,105,818
COLUMBIANA	40	74,537,420	40,687,857	1,887,325	MUSKINGUM	41	35,885,713	28,835,310	1,020,074
COSHOCTON	14	23,529,351	10,867,344	433,971	NOBLE	1	1,972,546	997,070	44,495
CRAWFORD	31	27,473,174	23,779,281	890,961	OTTAWA	39	42,310,035	34,127,328	1,411,771
CUYAHOGA	943	4,736,979,772	1,049,399,200	50,340,243	PAULDING	7	5,043,022	4,876,545	166,496
DARKE	34	32,413,834	30,319,583	1,270,414	PERRY	7	6,128,913	5,745,580	228,194
DEFIANCE	27	18,939,553	17,040,118	515,395	PICKAWAY	28	35,262,413	22,974,488	926,574
DELAWARE	72	103,690,874	88,894,056	4,445,514	PIKE	8	9,272,088	8,785,360	416,477
ERIE	51	47,703,208	42,305,818	1,728,327	PORTAGE	77	79,144,312	69,133,320	2,973,243
FAIRFIELD	75	111,509,068	103,155,317	5,368,297	PREBLE	22	20,790,722	15,684,212	557,638
FAYETTE	20	19,830,898	17,647,902	736,186	PUTNAM	25	64,847,449	18,133,323	657,927
FRANKLIN	527	648,999,356	562,350,491	26,334,761	RICHLAND	65	66,259,147	50,679,552	1,966,260
FULTON	39	43,135,451	39,599,320	1,800,477	ROSS	31	21,352,880	19,374,901	595,210
GALLIA	16	13,598,265	9,796,346	316,961	SANDUSKY	45	37,175,845	28,048,125	865,859
GEAUGA	81	215,788,212	92,139,247	4,548,424	SCIOTO	16	10,705,376	9,061,329	257,800
GREENE	78	131,001,802	62,029,682	2,388,396	SENECA	48	31,804,305	28,743,163	887,701
GUERNSEY	10	9,930,814	6,751,265	222,759	SHELBY	29	44,670,886	29,456,113	1,355,181
HAMILTON	800	1,383,118,521	1,014,094,463	51,293,870	STARK	188	212,489,324	173,625,349	7,615,369
HANCOCK	64	69,057,565	57,600,835	2,433,406	SUMMIT	356	440,722,772	358,957,147	16,430,653
HARDIN	17	14,943,693	12,978,088	482,094	TRUMBULL	95	102,412,981	89,217,200	3,940,701
HARRISON	13	8,039,753	6,055,056	120,147	TUSCARAWAS	49	44,406,514	34,816,244	1,213,869
HENRY	26	23,595,489	21,116,928	828,699	UNION	19	18,302,837	16,644,765	689,028
HIGHLAND	16	9,848,825	9,076,050	263,164	VAN WERT	17	14,763,248	12,094,454	425,361
HOCKING	8	7,522,800	6,185,461	231,574	VINTON	3	5,223,432	4,826,601	261,962
HOLMES	9	13,301,616	12,266,853	630,980	WARREN	81	81,805,886	73,630,898	3,151,595
HURON	38	32,918,465	28,656,644	1,075,735	WASHINGTON	29	25,497,882	22,090,052	844,929
JACKSON	8	14,926,149	14,491,373	821,721	WAYNE	83	93,967,345	76,053,618	3,258,390
JEFFERSON	36	31,341,992	27,445,101	1,066,961	WILLIAMS	39	43,739,806	40,339,287	1,849,994
KNOX	23	19,153,197	17,560,636	655,133	WOOD	96	116,962,407	101,535,440	4,709,394
LAKE	146	149,671,866	134,422,328	5,825,639	WYANDOT	22	20,865,961	19,007,348	782,333
LAWRENCE	16	13,715,031	12,628,328	482,150					
LICKING	79	72,623,622	66,322,406	2,718,232	TOTAL	6,633	\$11,635,868,575	\$6,472,618,447	\$290,208,960

¹ Statistics are derived from returns on which audits were completed and final certificates were issued in fiscal year 2007. This data differs from Table 2 due to reporting complications.