

As Introduced

**129th General Assembly
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H. B. No. 3

Representatives Grossman, Hottinger

**Cosponsors: Representatives Adams, J., Martin, McClain, Boose, Huffman,
Maag, Brenner, Thompson, Hayes, Okey, Slaby, Newbold, Ruhl, Hite, Sears,
Derickson, Dovilla, Gonzales, Blair, Kozlowski, Uecker, Henne, Stautberg,
Combs, Roegner, Peterson**

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A B I L L

To amend sections 5731.02, 5731.19, and 5731.21 of 1
the Revised Code to repeal the estate tax for the 2
estates of individuals dying on or after January 3
1, 2011. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5731.02, 5731.19, and 5731.21 of the 5
Revised Code be amended to read as follows: 6

Sec. 5731.02. (A) A tax is hereby levied on the transfer of 7
the taxable estate, determined as provided in section 5731.14 of 8
the Revised Code, of every person dying on or after July 1, 1968, 9
and before January 1, 2011, who at the time of death was a 10
resident of this state, as follows: 11

If the taxable estate is:	The tax shall be:	
Not over \$40,000	2% of the taxable estate	13
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	14
Over \$100,000 but not over	\$2,600 plus 4% of the excess over	15

\$200,000	\$100,000	
Over \$200,000 but not over	\$6,600 plus 5% of the excess over	16
\$300,000	\$200,000	
Over \$300,000 but not over	\$11,600 plus 6% of the excess	17
\$500,000	over \$300,000	
Over \$500,000	\$23,600 plus 7% of the excess	18
	over \$500,000.	

(B) A credit shall be allowed against the tax imposed by 19
division (A) of this section equal to the lesser of five hundred 20
dollars or the amount of the tax for persons dying on or after 21
July 1, 1968, but before January 1, 2001; the lesser of six 22
thousand six hundred dollars or the amount of the tax for persons 23
dying on or after January 1, 2001, but before January 1, 2002; or 24
the lesser of thirteen thousand nine hundred dollars or the amount 25
of the tax for persons dying on or after January 1, 2002. 26

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 27
so much of the taxable estate of every person dying on or after 28
July 1, 1968, and before January 1, 2011, who, at the time of ~~his~~ 29
death, was not a resident of this state, as consists of real 30
property situated in this state, tangible personal property having 31
an actual situs in this state, and intangible personal property 32
employed in carrying on a business within this state unless 33
exempted from tax under the provisions of section 5731.34 of the 34
Revised Code. 35

(B) The amount of the tax on such real and tangible personal 36
property shall be determined as follows: 37

(1) Determine the amount of tax which would be payable under 38
Chapter 5731. of the Revised Code if the decedent had died a 39
resident of this state with all ~~his~~ the decedent's property 40
situated or located within this state; 41

(2) Multiply the tax so determined by a fraction, the 42

denominator of which shall be the value of the gross estate 43
wherever situated and the numerator of which shall be the said 44
gross estate value of the real property situated and the tangible 45
personal property having an actual situs in this state and 46
intangible personal property employed in carrying on a business 47
within this state and not exempted from tax under section 5731.34 48
of the Revised Code. The product shall be the amount of tax 49
payable to this state. 50

(C) In addition to the tax levied by division (A) of this 51
section, an additional tax is hereby levied on such real and 52
tangible personal property determined as follows: 53

(1) Determine the amount of tax which would be payable under 54
division (A) of section 5731.18 of the Revised Code, if the 55
decedent had died a resident of this state with all ~~his~~ the 56
decedent's property situated or located within this state; 57

(2) Multiply the tax so determined by a fraction, the 58
denominator of which shall be the value of the gross estate 59
wherever situated and the numerator of which shall be the said 60
gross estate value of the real property situated and the tangible 61
property having an actual situs in this state and intangible 62
personal property employed in carrying on a business within this 63
state and not exempted from tax under section 5731.34 of the 64
Revised Code. The product so derived shall be credited with the 65
amount of the tax determined under division (B) of this section. 66

Sec. 5731.21. (A)(1)(a) Except as provided under division 67
(A)(3) of this section, the executor or administrator, or, if no 68
executor or administrator has been appointed, another person in 69
possession of property the transfer of which is subject to estate 70
taxes under section 5731.02 or division (A) of section 5731.19 of 71
the Revised Code, shall file an estate tax return, within nine 72
months of the date of the decedent's death, in the form prescribed 73

by the tax commissioner, in duplicate, with the probate court of 74
the county. The return shall include all property the transfer of 75
which is subject to estate taxes, whether that property is 76
transferred under the last will and testament of the decedent or 77
otherwise. The time for filing the return may be extended by the 78
tax commissioner. 79

(b) The estate tax return described in division (A)(1)(a) of 80
this section shall be accompanied by a certificate, in the form 81
prescribed by the tax commissioner, that is signed by the 82
executor, administrator, or other person required to file the 83
return, and that states all of the following: 84

(i) The fact that the return was filed; 85

(ii) The date of the filing of the return; 86

(iii) The fact that the estate taxes under section 5731.02 or 87
division (A) of section 5731.19 of the Revised Code, that are 88
shown to be due in the return, have been paid in full; 89

(iv) If applicable, the fact that real property listed in the 90
inventory for the decedent's estate is included in the return; 91

(v) If applicable, the fact that real property not listed in 92
the inventory for the decedent's estate, including, but not 93
limited to, survivorship tenancy property as described in section 94
5302.17 of the Revised Code or transfer on death property as 95
described in sections 5302.22 and 5302.23 of the Revised Code, 96
also is included in the return. In this regard, the certificate 97
additionally shall describe that real property by the same 98
description used in the return. 99

(2) The probate court shall forward one copy of the estate 100
tax return described in division (A)(1)(a) of this section to the 101
tax commissioner. 102

(3) A person shall not be required to file a return under 103

division (A) of this section if the decedent was a resident of 104
this state and the value of the decedent's gross estate is 105
twenty-five thousand dollars or less in the case of a decedent 106
dying on or after July 1, 1968, but before January 1, 2001; two 107
hundred thousand dollars or less in the case of a decedent dying 108
on or after January 1, 2001, but before January 1, 2002; or three 109
hundred thirty-eight thousand three hundred thirty-three dollars 110
or less in the case of a decedent dying on or after January 1, 111
2002. No return shall be filed for estates of decedents dying on 112
or after January 1, 2011. 113

(4)(a) Upon receipt of the estate tax return described in 114
division (A)(1)(a) of this section and the accompanying 115
certificate described in division (A)(1)(b) of this section, the 116
probate court promptly shall give notice of the return, by a form 117
prescribed by the tax commissioner, to the county auditor. The 118
auditor then shall make a charge based upon the notice and shall 119
certify a duplicate of the charge to the county treasurer. The 120
treasurer then shall collect, subject to division (A) of section 121
5731.25 of the Revised Code or any other statute extending the 122
time for payment of an estate tax, the tax so charged. 123

(b) Upon receipt of the return and the accompanying 124
certificate, the probate court also shall forward the certificate 125
to the auditor. When satisfied that the estate taxes under section 126
5731.02 or division (A) of section 5731.19 of the Revised Code, 127
that are shown to be due in the return, have been paid in full, 128
the auditor shall stamp the certificate so forwarded to verify 129
that payment. The auditor then shall return the stamped 130
certificate to the probate court. 131

(5)(a) The certificate described in division (A)(1)(b) of 132
this section is a public record subject to inspection and copying 133
in accordance with section 149.43 of the Revised Code. It shall be 134
kept in the records of the probate court pertaining to the 135

decedent's estate and is not subject to the confidentiality 136
provisions of section 5731.90 of the Revised Code. 137

(b) All persons are entitled to rely on the statements 138
contained in a certificate as described in division (A)(1)(b) of 139
this section if it has been filed in accordance with that 140
division, forwarded to a county auditor and stamped in accordance 141
with division (A)(4) of this section, and placed in the records of 142
the probate court pertaining to the decedent's estate in 143
accordance with division (A)(5)(a) of this section. The real 144
property referred to in the certificate shall be free of, and may 145
be regarded by all persons as being free of, any lien for estate 146
taxes under section 5731.02 and division (A) of section 5731.19 of 147
the Revised Code. 148

(B) An estate tax return filed under this section, in the 149
form prescribed by the tax commissioner, and showing that no 150
estate tax is due shall result in a determination that no estate 151
tax is due, if the tax commissioner within three months after the 152
receipt of the return by the department of taxation, fails to file 153
exceptions to the return in the probate court of the county in 154
which the return was filed. A copy of exceptions to a return of 155
that nature, when the tax commissioner files them within that 156
period, shall be sent by ordinary mail to the person who filed the 157
return. The tax commissioner is not bound under this division by a 158
determination that no estate tax is due, with respect to property 159
not disclosed in the return. 160

(C) If the executor, administrator, or other person required 161
to file an estate tax return fails to file it within nine months 162
of the date of the decedent's death, the tax commissioner may 163
determine the estate tax in that estate and issue a certificate of 164
determination in the same manner as is provided in division (B) of 165
section 5731.27 of the Revised Code. A certificate of 166
determination of that nature has the same force and effect as 167

though a return had been filed and a certificate of determination 168
issued with respect to the return. 169

Section 2. That existing sections 5731.02, 5731.19, and 170
5731.21 of the Revised Code are hereby repealed. 171