

As Introduced

**124th General Assembly
Regular Session
2001-2002**

H. B. No. 114

**REPRESENTATIVES Latta, Young, Metzger, Core, Goodman, Kearns,
Calvert, Hartnett, Sferra, Redfern, Patton, Jolivette, Willamowski, Husted,
Webster, Hollister, Callender, Britton, Williams, Barrett, Allen, Flowers,
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A B I L L

To amend sections 5731.02 and 5731.21; and then to 1
amend sections 5709.76, 5731.19, 5731.21, 5731.23, 2
5731.26, 5731.27, 5731.28, 5731.33, 5731.37, 3
5731.38, 5731.47, 5731.48, and 5731.90, to enact 4
new section 5731.25, and to repeal section 5731.25 5
of the Revised Code to phase out the basic estate 6
tax by 2006, and thereafter retaining only the tax 7
that picks up the maximum federal credit for state 8
estate taxes. 9

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

Section 1. That sections 5731.02 and 5731.21 of the Revised 10
Code be amended to read as follows: 11

Sec. 5731.02. ~~(A)~~ A tax is hereby levied on the transfer of 12
the taxable estate, determined as provided in section 5731.14 of 13
the Revised Code, of every person dying on or after July 1, 1968, 14
who at the time of death was a resident of this state, as follows: 15

(A) For persons dying on or after July 1, 1968, but before 16
January 1, 2001, the tax shown in the following schedule, less a 17

credit equal to the lesser of five hundred dollars or the amount 18
of tax shown to be due in that schedule: 19

<u>If the taxable estate is:</u>	<u>The tax shall be:</u>	
Not over \$40,000	2% of the taxable estate	21
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	22
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	23
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	24
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	25
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.	26

~~(B) A credit shall be allowed against the tax imposed by~~ 27
~~division (A) of this section equal to the lesser of five hundred~~ 28
~~dollars or the amount of the tax for persons dying on or after~~ 29
~~July 1, 1968, but before January 1, 2001; the lesser of six~~ 30
~~thousand six hundred dollars or the amount of the tax for persons~~ 31
~~dying on or after January 1, 2001, but before January 1, 2002; or~~ 32
~~the lesser of thirteen thousand nine hundred dollars or the amount~~ 33
~~of the tax for persons dying on or after January 1, 2002. For~~ 34
~~persons dying on or after January 1, 2001, but before January 1,~~ 35
~~2002:~~ 36

<u>If the taxable estate is:</u>	<u>The tax shall be:</u>	
<u>not over \$200,000</u>	<u>No tax</u>	38
<u>Over \$200,000 but not over \$300,000</u>	<u>5% of the excess over \$200,000</u>	39
<u>Over \$300,000 but not over \$500,000</u>	<u>\$5,000 plus 6% of the excess over \$300,000</u>	40
<u>Over \$500,000</u>	<u>\$17,000 plus 7% of the excess over \$500,000.</u>	41

(C) For persons dying on or after January 1, 2002, but before 42
January 1, 2003: 43

If the taxable estate is: The tax shall be: 44

Not over \$338,333 No tax 45

Over \$338,333 but not over 6% of the excess over \$338,000 46
\$500,000

Over \$500,000 \$9,720 plus 7% of the excess over 47
\$500,000.

(D) For persons dying on or after January 1, 2003, but before 48
January 1, 2004, the tax shall be seven per cent of the taxable 49
estate in excess of seven hundred thousand dollars. 50

(E) For persons dying on or after January 1, 2004, but before 51
January 1, 2005, the tax shall be seven per cent of the taxable 52
estate in excess of eight hundred fifty thousand dollars. 53

(F) For persons dying on or after January 1, 2005, but before 54
January 1, 2006, the tax shall be seven per cent of the taxable 55
estate in excess of nine hundred fifty thousand dollars. 56

(G) For persons dying on or after January 1, 2006, no tax is 57
levied under this section. 58

Sec. 5731.21. (A)(1)(a) Except as provided under division 59
(A)(3) of this section, the executor or administrator, or, if no 60
executor or administrator has been appointed, another person in 61
possession of property the transfer of which is subject to estate 62
taxes under section 5731.02 or division (A) of section 5731.19 of 63
the Revised Code, shall file an estate tax return, within nine 64
months of the date of the decedent's death, in the form prescribed 65
by the tax commissioner, in duplicate, with the probate court of 66
the county. The return shall include all property the transfer of 67
which is subject to estate taxes, whether that property is 68
transferred under the last will and testament of the decedent or 69
otherwise. The time for filing the return may be extended by the 70

tax commissioner. 71

(b) The estate tax return described in division (A)(1)(a) of 72
this section shall be accompanied by a certificate, in the form 73
prescribed by the tax commissioner, that is signed by the 74
executor, administrator, or other person required to file the 75
return, and that states all of the following: 76

(i) The fact that the return was filed; 77

(ii) The date of the filing of the return; 78

(iii) The fact that the estate taxes under section 5731.02 or 79
division (A) of section 5731.19 of the Revised Code, that are 80
shown to be due in the return, have been paid in full; 81

(iv) If applicable, the fact that real property listed in the 82
inventory for the decedent's estate is included in the return; 83

(v) If applicable, the fact that real property not listed in 84
the inventory for the decedent's estate, including, but not 85
limited to, survivorship tenancy property as described in section 86
5302.17 of the Revised Code or transfer on death property as 87
described in sections 5302.22 and 5302.23 of the Revised Code, 88
also is included in the return. In this regard, the certificate 89
additionally shall describe that real property by the same 90
description used in the return. 91

(2) The probate court shall forward one copy of the estate 92
tax return described in division (A)(1)(a) of this section to the 93
tax commissioner. 94

(3) A person may, but shall not be required to, file a return 95
under division (A) of this section if the decedent was a resident 96
of this state and the value of the decedent's gross estate is 97
~~twenty-five thousand dollars or less in the case of a decedent 98~~
~~dying on or after July 1, 1968, but before January 1, 2001; two 99~~
~~hundred thousand dollars or less in the case of a decedent dying 100~~

~~on or after January 1, 2001, but before January 1, 2002; or three~~ 101
~~hundred thirty-eight thousand dollars or less in the case of a~~ 102
~~decendent dying on or after January 1, 2002. If less than or equal~~ 103
~~to the amount indicated in the following schedule:~~ 104

<u>DATE OF DECEDENT'S DEATH</u>	<u>GROSS ESTATE</u>	
<u>On or after July 1, 1968, but before January 1, 2001</u>	<u>\$25,000</u>	106
<u>On or after January 1, 2001, but before January 1, 2002</u>	<u>\$200,000</u>	107
<u>On or after January 1, 2002, but before January 1, 2003</u>	<u>\$338,000</u>	108
<u>On or after January 1, 2003, but before January 1, 2004</u>	<u>\$700,000</u>	109
<u>On or after January 1, 2004, but before January 1, 2005</u>	<u>\$850,000</u>	110
<u>On or after January 1, 2005, but before January 1, 2006</u>	<u>\$950,000.</u>	111

If a probate court issues an order that grants a summary 112
release from administration in connection with a decedent's estate 113
under section 2113.031 of the Revised Code, that order eliminates 114
the duty of all persons to file an estate tax return and 115
certificate under divisions (A)(1)(a) and (b) of this section with 116
respect to the estate for which the order was granted. 117

(4)(a) Upon receipt of the estate tax return described in 118
division (A)(1)(a) of this section and the accompanying 119
certificate described in division (A)(1)(b) of this section, the 120
probate court promptly shall give notice of the return, by a form 121
prescribed by the tax commissioner, to the county auditor. The 122
auditor then shall make a charge based upon the notice and shall 123
certify a duplicate of the charge to the county treasurer. The 124
treasurer then shall collect, subject to division (A) of section 125
5731.25 of the Revised Code or any other statute extending the 126

time for payment of an estate tax, the tax so charged. 127

(b) Upon receipt of the return and the accompanying 128
certificate, the probate court also shall forward the certificate 129
to the auditor. When satisfied that the estate taxes under section 130
5731.02 or division (A) of section 5731.19 of the Revised Code, 131
that are shown to be due in the return, have been paid in full, 132
the auditor shall stamp the certificate so forwarded to verify 133
that payment. The auditor then shall return the stamped 134
certificate to the probate court. 135

(5)(a) The certificate described in division (A)(1)(b) of 136
this section is a public record subject to inspection and copying 137
in accordance with section 149.43 of the Revised Code. It shall be 138
kept in the records of the probate court pertaining to the 139
decedent's estate and is not subject to the confidentiality 140
provisions of section 5731.90 of the Revised Code. 141

(b) All persons are entitled to rely on the statements 142
contained in a certificate as described in division (A)(1)(b) of 143
this section if it has been filed in accordance with that 144
division, forwarded to a county auditor and stamped in accordance 145
with division (A)(4) of this section, and placed in the records of 146
the probate court pertaining to the decedent's estate in 147
accordance with division (A)(5)(a) of this section. The real 148
property referred to in the certificate shall be free of, and may 149
be regarded by all persons as being free of, any lien for estate 150
taxes under section 5731.02 and division (A) of section 5731.19 of 151
the Revised Code. 152

(B) An estate tax return filed under this section, in the 153
form prescribed by the tax commissioner, and showing that no 154
estate tax is due shall result in a determination that no estate 155
tax is due, if the tax commissioner within three months after the 156
receipt of the return by the department of taxation, fails to file 157
exceptions to the return in the probate court of the county in 158

which the return was filed. A copy of exceptions to a return of
that nature, when the tax commissioner files them within that
period, shall be sent by ordinary mail to the person who filed the
return. The tax commissioner is not bound under this division by a
determination that no estate tax is due, with respect to property
not disclosed in the return.

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

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

Section 3. That new section 5731.25 and sections 5709.76,
5731.19, 5731.21, 5731.23, 5731.26, 5731.27, 5731.28, 5731.33,
5731.37, 5731.38, 5731.47, 5731.48, and 5731.90 of the Revised
Code be amended to read as follows:

Sec. 5709.76. (A) All of the following are exempt from taxes
levied by the state and its subdivisions:

(1) Public obligations;

(2) Interest or interest equivalent on public obligations and
on purchase obligations;

(3) The transfer, and any profit made on the sale, exchange,
or other disposition, of public obligations.

(B) The exemptions granted by division (A) of this section 187
apply to public obligations and purchase obligations issued, 188
incurred, or entered into before, on, or after ~~the effective date~~ 189
~~of this section~~ March 29, 1988, but only for taxable years ending 190
on or after the later of July 1, 1988, or ~~the effective date of~~ 191
~~this section~~ March 29, 1988. 192

(C) This section supplements, and does not restrict, limit, 193
or impair, any exemption from taxation otherwise provided for in 194
the Ohio Constitution, the Revised Code, or other laws. 195

(D) As used in this section: 196

(1) "Fractionalized interests in purchase obligations" means 197
participations, shares, or other instruments or agreements, 198
separate from the purchase obligations themselves, evidencing 199
ownership of interests in purchase obligations or of rights to 200
receive payments of, or on account of, principal or interest or 201
their equivalents payable by or on behalf of the state or a 202
subdivision pursuant to purchase obligations, and does not include 203
interests or shares in qualified investment trusts. 204

(2) "Interest or interest equivalent" means those payments or 205
portions of payments, however denominated, that constitute or 206
represent consideration for forbearing the collection of money, or 207
for deferring the receipt of payment of money to a future time, as 208
determined for federal income tax purposes, and includes those 209
portions of a qualified investment trust's distributions to its 210
shareholders or beneficial owners, whether distributed or deemed 211
distributed in cash or in trust shares or interests, that are 212
attributable to the trust's receipt of interest or interest 213
equivalent. 214

(3) "Internal Revenue Code" has the same meaning as in 215
division (H) of section 5747.01 of the Revised Code. 216

(4) "Qualified investment trust" or "trust" means a unit 217

investment trust, grantor trust, or regulated investment company, 218
if at all times at least fifty per cent of the value of the total 219
assets of the trust or company consists of public securities or 220
purchase obligations, or similar obligations of other states or 221
their subdivisions. 222

(5) "Public obligations" means public securities, 223
fractionalized interests in purchase obligations, and any 224
obligation or evidence of obligation to pay interest or interest 225
equivalent on public securities or on fractionalized interests in 226
purchase obligations, and does not include purchase obligations. 227

(6) "Public securities" means bonds, notes, certificates of 228
indebtedness, commercial paper, and other instruments in writing 229
issued by the state or a subdivision, or by any nonprofit 230
corporation authorized to issue public securities for or on behalf 231
of the state or a subdivision, to evidence the obligation of the 232
state, subdivision, or nonprofit corporation to repay money 233
borrowed by, or to pay at any future time other money obligations 234
of, the state, subdivision, or nonprofit corporation, and does not 235
include purchase obligations. Public securities may be in the form 236
of either certificated securities or uncertificated securities, as 237
those terms are defined in section 1308.01 of the Revised Code. 238

(7) "Purchase obligations" means interest-bearing obligations 240
of the state or a subdivision to make payments under installment 241
sale, lease, lease purchase, or similar types of agreements. 242

(8) "Regulated investment company" means a regulated 244
investment company as defined in section 851 of the Internal 245
Revenue Code. 246

(9) "State" means the state, state officers, and state 247
agencies, including commissions, institutions, boards, agencies, 248

authorities, or other instrumentalities.	249
(10) "Subdivision" means any local taxing authority,	250
political or governmental subdivision, body corporate and politic,	251
or other local public or governmental entity in the state, any	252
combination or consortium of two or more of those subdivisions,	253
and any public division, district, commission, authority,	254
department, board, officer, or institution of any one or more of	255
those subdivisions.	256
(11) "Taxes" means any direct or indirect taxes, including	257
income, ad valorem, transfer, and excise taxes, and including the	258
tax on the net income measure of the issued and outstanding shares	259
of a corporation under Chapter 5733. of the Revised Code. "Taxes"	260
does not mean any of the following:	261
(a) The tax on the net worth measure of the issued and	262
outstanding shares of corporations and financial institutions	263
under Chapter 5733. of the Revised Code;	264
(b) The tax on the value of the gross estate under Chapter	265
5731. of the Revised Code;	266
(c) The tax on the value of the capital and surplus of a	267
domestic insurance company under Chapter 5725. of the Revised	268
Code;	269
(d) The tax on the shares of and capital employed by dealers	270
in intangibles under Chapter 5725. and section 5707.03 of the	271
Revised Code.	272
Sec. 5731.19. (A) A tax is hereby levied upon the transfer of	273
so much of the taxable estate of every person dying on or after	274
July 1, 1968, who, at the time of his death, was not a resident of	275
this state, as consists of real property situated in this state,	276
tangible personal property having an actual situs in this state,	277
and intangible personal property employed in carrying on a	278

business within this state unless exempted from tax under ~~the~~ 279
~~provisions of~~ section 5731.34 of the Revised Code. 280

(B) The amount of the tax on such real and tangible personal 281
property shall be determined as follows: 282

(1) Determine the amount of tax which would be payable under 283
Chapter 5731. of the Revised Code if the decedent had died a 284
resident of this state with all ~~his~~ the decedent's property 285
situated or located within this state; 286

(2) Multiply the tax so determined by a fraction, the 287
denominator of which shall be the value of the gross estate 288
wherever situated and the numerator of which shall be the ~~said~~ 289
gross estate value of the real property situated and the tangible 290
personal property having an actual situs in this state and 291
intangible personal property employed in carrying on a business 292
within this state and not exempted from tax under section 5731.34 293
of the Revised Code. The product shall be the amount of tax 294
payable to this state. 295

~~(C) In addition to the tax levied by division (A) of this~~ 296
~~section, an additional tax is hereby levied on such real and~~ 297
~~tangible personal property determined as follows:~~ 298

~~(1) Determine the amount of tax which would be payable under~~ 299
~~division (A) of section 5731.18 of the Revised Code, if the~~ 300
~~decedent had died a resident of this state with all his property~~ 301
~~situated or located within this state;~~ 302

~~(2) Multiply the tax so determined by a fraction, the~~ 303
~~denominator of which shall be the value of the gross estate~~ 304
~~wherever situated and the numerator of which shall be the said~~ 305
~~gross estate value of the real property situated and the tangible~~ 306
~~property having an actual situs in this state and intangible~~ 307
~~personal property employed in carrying on a business within this~~ 308
~~state and not exempted from tax under section 5731.34 of the~~ 309

~~Revised Code. The product so derived shall be credited with the amount of the tax determined under division (B) of this section.~~

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Sec. 5731.21. ~~(A)(1)(a) Except as provided under division (A)(3) of this section, the The executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, shall file an a copy of the federal estate tax return, if any return is due, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may shall be extended by the tax commissioner. any federal filing extension. The~~

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

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

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

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

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

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~~(v) If applicable, the fact that real property not listed in the inventory for the decedent's estate, including, but not~~

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limited to, survivorship tenancy property as described in section 5302.17 of the Revised Code or transfer on death property as described in sections 5302.22 and 5302.23 of the Revised Code, also is included in the return. In this regard, the certificate additionally shall describe that real property by the same description used in the return.

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

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(3) A person may, but shall not be required to, file a return under division (A) of this section if the decedent was a resident of this state and the value of the decedent's gross estate is less than or equal to the amount indicated in the following schedule:

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DATE OF DECEDENT'S DEATH	GROSS ESTATE	
On or after July 1, 1968, but before January 1, 2001	\$25,000	354 355
On or after January 1, 2001, but before January 1, 2002	\$200,000	356
On or after January 1, 2002, but before January 1, 2003	\$338,000	357
On or after January 1, 2003, but before January 1, 2004	\$700,000	358
On or after January 1, 2004, but before January 1, 2005	\$850,000	359
On or after January 1, 2005, but before January 1, 2006	\$950,000.	360

If a probate court issues an order that grants a summary release from administration in connection with a decedent's estate under section 2113.031 of the Revised Code, that order eliminates the duty of all persons to file an estate tax return and certificate under divisions (A)(1)(a) and (b) of this section with

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respect to the estate for which the order was granted. 366

~~(4)(a)(B) Upon receipt of the estate tax return described in 367
division (A)(1)(a) of this section and the accompanying 368
certificate described in division (A)(1)(b) of this section, the 369
probate court promptly shall give notice of the return, by a form 370
prescribed by the tax commissioner, to the county auditor. The 371
auditor then shall make a charge based upon the notice and shall 372
certify a duplicate of the charge to the county treasurer. The 373
treasurer then shall collect, subject to division (A) of section 374
5731.25 of the Revised Code or any other statute extending the 375
time for payment of an estate tax, the tax so charged. 376~~

~~(b) Upon receipt of the return and the accompanying 377
certificate, the probate court also shall forward the certificate 378
to the auditor. When satisfied that the estate taxes under section 379
5731.02 or division (A) of section 5731.19 of the Revised Code, 380
that are shown to be due in the return, have been paid in full, 381
the auditor shall stamp the certificate so forwarded to verify 382
that payment. The auditor then shall return the stamped 383
certificate to the probate court. 384~~

~~(5)(a) The certificate described in division (A)(1)(b) of 385
this section is a public record subject to inspection and copying 386
in accordance with section 149.43 of the Revised Code. It shall be 387
kept in the records of the probate court pertaining to the 388
decedent's estate and is not subject to the confidentiality 389
provisions of section 5731.90 of the Revised Code. 390~~

~~(b) All persons are entitled to rely on the statements 391
contained in a certificate as described in division (A)(1)(b) of 392
this section if it has been filed in accordance with that 393
division, forwarded to a county auditor and stamped in accordance 394
with division (A)(4) of this section, and placed in the records of 395
the probate court pertaining to the decedent's estate in 396
accordance with division (A)(5)(a) of this section. The real 397~~

~~property referred to in the certificate shall be free of, and may
be regarded by all persons as being free of, any lien for estate
taxes under section 5731.02 and division (A) of section 5731.19 of
the Revised Code.~~

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

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~~(C) If the executor, administrator, or other person required
to file an estate tax return fails to file it within nine months
of the date of the decedent's death, the tax commissioner may
determine the estate tax in that estate and issue a certificate of
determination in the same manner as is provided in division (B) of
section 5731.27 of the Revised Code. A certificate of
determination of that nature has the same force and effect as
though a return had been filed and a certificate of determination
issued with respect to the return.~~

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Sec. 5731.23. ~~Subject to division (A) of section 5731.25 of
the Revised Code or any other statute extending the time for
payment of an estate tax, the tax levied by section 5731.02 and
division (A) of section 5731.19 of the Revised Code shall, without
notice or demand by the tax commissioner, be due and payable by
the person liable for it, at the expiration of nine months from~~

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the date of the decedent's death, to the treasurer of the county. 429
If any amount of tax levied by section 5731.02 or division (A) of 430
section 5731.19 of the Revised Code is not paid on or before nine 431
months from the date of the decedent's death, interest on such 432
amount shall be paid for the period from such date to the date 433
paid, computed at the rate per annum prescribed by section 5703.47 434
of the Revised Code. Interest at the same rate shall be paid on 435
any amount of tax determined to be due by way of deficiency from 436
nine months from the date of the decedent's death to the date of 437
payment thereof. Such interest shall be charged and collected in 438
the same manner as the tax. 439

Interest computed at the rate per annum prescribed by section 440
5703.47 of the Revised Code shall be allowed and paid upon any 441
overpayment of tax levied by section 5731.02 or division (A) of 442
section 5731.19 of the Revised Code from nine months from the date 443
of the decedent's death or the date of payment of the tax, 444
whichever is later, to the date such overpayment is repaid. Such 445
payment may be made upon an estimated basis whether or not a 446
return is filed, and shall be charged and collected in the same 447
manner as provided in section 5731.21 of the Revised Code. 448

At any time after nine months from the date of the decedent's 449
death, payment of an estimated deficiency may be made and shall be 450
credited against any deficiency of tax finally determined. 451
Interest on any deficiency ultimately determined to be due shall 452
be charged only upon the unpaid portion thereof. 453

Sec. 5731.25. The time for payment of the estate tax shall be 454
extended in whole or in part and for the same periods as payment 455
of the federal estate tax is extended. 456

~~Sec. 5731.26. (A) The tax commissioner shall promptly 457
determine the correctness of the return with respect to the 458~~

~~includibility of property, the fair market value or, if 459
applicable, the actual qualified use value of the assets included 460
in the gross estate, the allowance of the credit against the tax 461
and deductions, and all other matters necessary to determine the 462
correct amount of the tax. For this purpose, he may issue 463
subpoenas, compel the attendance of witnesses and the production 464
of books and papers, examine the witnesses under oath concerning 465
any relevant matter, and require the submission of affidavits and 466
forms which he may deem necessary to determine the correct amount 467
of the tax. 468~~

~~The tax commissioner may designate an employee or employees 469
of the county auditor or of the probate court of any county, with 470
the consent of the county auditor or of the probate judge of that 471
county, as his agent or agents to assist him in accepting filings 472
of returns in the county, in determining the correctness of the 473
returns filed in the county, and in complying with this chapter. 474
The employee or employees so designated shall have all of the 475
powers granted to the tax commissioner for these purposes. 476~~

~~(B) The tax commissioner shall give notice to the person 477
filing the return of any adjustments which he that the 478
commissioner proposes to make, and, at the request of the person, 479
shall set a time for an administrative conference on the notice in 480
the county or, by agreement of the person filing the return and 481
the tax commissioner, in Columbus. At the conclusion of such 482
conference, or if the conference is waived by the person filing 483
the return, the tax commissioner shall proceed with the final 484
determination of the tax liability as provided in section 5731.27 485
of the Revised Code. 486~~

~~(C) At or before the time of the administrative conference, 487
the person filing the return and the tax commissioner may agree in 488
writing to have the correctness of the return as to any item 489
determined in accordance with the final determination of such item 490~~

~~for federal estate tax purposes. If such agreement is made, the
person filing the return shall, within sixty days after the final
determination of the federal estate tax liability, furnish to the
tax commissioner such information as may be required to determine
the tax in accordance with such agreement, and the tax
commissioner shall make his final determination of tax liability
in the same manner as is provided in section 5731.27 of the
Revised Code.~~

Sec. 5731.27. (A) The tax commissioner shall, if he
~~determines~~ after determining that a return indicating that a tax
is due is correct as filed, issue a certificate of determination
of final estate tax liability showing the amount of such
liability, if any, in triplicate, one copy of which shall be sent
by regular mail to the person filing the return, one copy of which
shall be sent to the county auditor for the county in which the
return was filed, and one copy of which shall be sent to the
probate court of the county in which the return was filed if there
is an administration of or other proceedings in the decedent's
estate.

(B) The tax commissioner, if he ~~determines~~ after determining
that a deficiency or refund of tax or penalty addition to tax,
shall issue ~~his~~ a certificate of determination stating the
adjusted amount of the tax due and the amount of any refund,
deficiency, or penalty. Such certificate also shall state whether
or not any portion of the tax liability has been reserved for
later determination in accordance with ~~division (C)~~ of section
5731.26 of the Revised Code. Such certificate shall be issued in
triplicate, one copy of which shall be sent by certified mail,
return receipt requested, to the person filing the return, or to
the person required to file the return if no such return was
filed, one copy of which shall be sent to the county auditor for
the county in which the return was filed or was required to be

filed, and one copy of which shall be sent to the probate court 523
for the county in which the return was filed or required to be 524
filed if there will be an administration of or other proceedings 525
in the decedent's estate. The person required to file the return, 526
or any interested party, shall have sixty days from the date of 527
receipt of such certificate by the person required to file the 528
return within which to file exceptions to such determination as 529
provided in section 5731.30 of the Revised Code. 530

(C) The county auditor, if no exceptions have been filed 531
within the time specified in division (B) of this section, or if 532
the right to file exceptions has been waived by all interested 533
parties by written waivers filed with the county auditor, shall: 534

(1) If the certificate of determination is for a refund, draw 535
~~his~~ a warrant for the proper amount of the refund and interest on 536
it, which warrant shall be paid by the county treasurer out of any 537
money in ~~his~~ the treasurer's possession to the credit of estate 538
taxes; 539

(2) If the certificate of determination is for a deficiency 540
or penalty, make a charge based upon such determination, and 541
certify a duplicate of it to the county treasurer, who shall 542
collect, subject to ~~division (A)~~ of section 5731.25 of the Revised 543
Code or any other statute extending the time for payment of an 544
estate tax, the deficiency or penalty so charged. 545

Sec. 5731.28. ~~If any debts deductible under section 5731.16~~ 546
~~of the Revised Code are proved against the gross estate~~ the amount 547
of the federal credit allowed is reduced after the tax levied by 548
section 5731.02 or division (A) of section 5731.19 of the Revised 549
Code has been determined, ~~or if the determination of taxes so made~~ 550
~~is erroneous due to a mistake of fact or law,~~ a claim for refund 551
of tax may be filed by an executor, administrator, trustee, person 552
in possession of property subject to tax, or any transferee 553

thereof, within ~~three~~ two years from the ~~time the return was~~ 554
~~required to be filed (determined without regard to any extension~~ 555
~~of time for filing)~~ date of the reduction, in the form prescribed 556
by the tax commissioner. The claim for refund shall be filed in 557
the same manner as is prescribed for the filing of a return in 558
section 5731.21 of the Revised Code and the determination of its 559
correctness shall be made in the same manner as is provided for in 560
the case of the return itself. 561

Sec. 5731.33. (A)~~(1)~~ Upon the payment ~~of~~ to the county 562
treasurer of any tax due under this chapter, the treasurer shall 563
issue a receipt for the payment in triplicate. ~~He~~ The treasurer 564
shall deliver one copy to the person paying the taxes, and ~~he~~ the 565
treasurer immediately shall send the original receipt to the tax 566
commissioner, who shall certify the original receipt and 567
immediately transmit it to the probate court for the county in 568
which the return has been filed if there is an administration of 569
or other proceedings in the decedent's estate. 570

~~(2) Upon the payment to a county treasurer of all estate~~ 571
~~taxes due under section 5731.02 or division (A) of section 5731.19~~ 572
~~of the Revised Code with respect to a particular decedent's~~ 573
~~estate, the treasurer, in order to assist the county auditor in~~ 574
~~performing his responsibility under division (A)(4)(b) of section~~ 575
~~5731.21 of the Revised Code, also shall notify the auditor, in~~ 576
~~writing, of the full payment of those taxes.~~ 577

(B) An executor, administrator, or testamentary trustee is 578
not entitled to credits in ~~his~~ the executor's, administrator's, or 579
testamentary trustee's accounts and is not entitled to be 580
discharged from liability for taxes due under this chapter, and 581
the estate under ~~his~~ the executor's, administrator's, or 582
testamentary trustee's control shall not be distributed, unless a 583
certified receipt has been filed with the probate court as 584

described in division (A)(1) of this section. 585

(C) Any person, upon the payment of one dollar to a county 586
treasurer issuing a receipt as described in division (A)(1) of 587
this section, shall be entitled to a duplicate receipt, executed 588
in the same manner as the original receipt. 589

Sec. 5731.37. (A) Taxes levied by this chapter shall be, 590
until restricted, transferred, or discharged pursuant to this 591
division, or until paid, or unless division (A)(5)(b) of section 592
5731.21 of the Revised Code applies to them, a lien upon all 593
property subject to the taxes. This lien: 594

(1) Is discharged, as to property applied to costs and 595
expenses of administration, property constituting the allowance 596
made to the surviving spouse, minor children, or surviving spouse 597
and minor children of the decedent under section 2106.13 of the 598
Revised Code for their support, and all of the property of a 599
decedent that is subject to inclusion in the gross estate and that 600
has been disclosed to the tax commissioner by the time a 601
certificate of discharge is issued; 602

(2) Is transferred, to the extent of any such property sold 603
by the executor, administrator, or trustee for the purpose of 604
paying debts, administration expenses, or taxes of the estate, or 605
for any purpose to a bona fide purchaser for an adequate and full 606
consideration in money or money's worth, to the money or other 607
property received from the purchaser. Knowledge that the property 608
is being sold by a fiduciary and that it otherwise would be 609
subject to the estate tax lien does not preclude the purchaser 610
from being classified as a bona fide purchaser. 611

(3) May be, by written authorization of the tax commissioner, 612
restricted to all property that is subject to such taxes, and not 613
specifically released, transferred to other property on conditions 614
acceptable to the tax commissioner, or fully discharged, each upon 615

conditions, including payment of a reasonable fee, prescribed by
rules adopted under section 5703.14 of the Revised Code, when ~~he~~
the tax commissioner determines that any of these actions will not
jeopardize the collection of the taxes;

(4) Shall be restricted, transferred, or discharged, as
authorized in division (A)(3) of this section, by the tax
commissioner, upon order of the probate court after notice to the
commissioner and any other person whose substantial rights may
reasonably be affected by the lien and hearing on an application
of the executor, administrator, trustee, or the owner of an
interest in any property subject, or reasonably the object of a
claim to be subject, to the lien, and proof that the collection of
the taxes will not be jeopardized by the action, and that the tax
commissioner failed to grant a reasonable request for the action
within sixty days of ~~his~~ receipt of a written request.

(B) The executor, administrator, trustee, or other person in
possession of property, the transfer of which is subject to the
taxes, or any transferee of the property, except a bona fide
purchaser for an adequate and full consideration in money or
money's worth, is personally liable for all the taxes to the
extent that their collection is reduced by ~~his~~ the omission of the
executor, administrator, or other person or of the transferee to
perform a statutory duty, with interest as provided in section
5731.23 of the Revised Code, until they have been paid. An
administrator, executor, or trustee of any property, the transfer
of which is subject to the taxes shall deduct the taxes from the
property, or collect them from any person entitled to the
property. ~~He~~ The administrator, executor, or trustee shall not
deliver or be compelled to deliver any property, the transfer of
which is subject to the taxes, to any person, until the taxes on
it have been collected, and on any other property of the same

decedent that has been, or is to be, transferred to the person or 648
his the person's spouse or minor child. He The administrator, 649
executor, or trustee may sell so much of the estate of the 650
decedent as will enable him the administrator, executor, or 651
trustee to pay the taxes in the same manner as for the payment of 652
the debts of the decedent. Knowledge that the property is being 653
sold by a fiduciary and that it otherwise would be subject to the 654
estate tax lien does not preclude the purchaser from being 655
classified as a bona fide purchaser. 656

~~(C) If an election is made, pursuant to division (B)(1)(b) or 657
(c) of section 5731.011 of the Revised Code to have qualified farm 658
property valued at its value for actual qualified use, an amount 659
equivalent to the estate tax savings realized in the decedent's 660
estate by valuating the property at its value for its actual 661
qualified use, instead of at its fair market value pursuant to 662
division (B) of section 5731.01 of the Revised Code, shall be a 663
lien in favor of this state on the property for four years after 664
the decedent's death, unless it is earlier discharged. The tax 665
commissioner may issue a certificate of subordination of any lien 666
imposed by this division upon any part of the property subject to 667
the lien, if the tax commissioner determines that the state will 668
be adequately secured after the subordination. 669~~

Sec. 5731.38. No liability for the payment of taxes levied 670
under Chapter 5731. of the Revised Code, including all interest 671
and penalties thereon, may be determined as to the return required 672
to be filed under section 5731.21 of the Revised Code, subsequent 673
to three years after such return is filed, ~~and as to the return~~ 674
~~required to be filed under section 5731.24 of the Revised Code,~~ 675
~~subsequent to three years after such return is filed.~~ Any lien in 676
realty created under Chapter 5731. of the Revised Code shall 677
become void upon the expiration of ten years after the date of 678
decedent's death. 679

In the event there is litigation pending at the expiration of 680
such three-year period for the determination or collection of any 681
such tax, including interest or penalties thereon, the liability 682
for the payment thereof continues until the expiration of one year 683
after final determination of such litigation. 684

Sec. 5731.47. The fees of the sheriff or other officers for 685
services performed under Chapter 5731. of the Revised Code and the 686
expenses of the county auditor shall be certified by the county 687
auditor by a report filed with the tax commissioner. If the tax 688
commissioner finds that such fees and expenses are correct and 689
reasonable in amount, the commissioner shall indicate approval of 690
the fees and expenses in writing to the county auditor. The 691
auditor shall pay such fees and expenses out of the ~~state's share~~ 692
~~of the~~ undivided inheritance taxes in the county treasury and draw 693
warrants payable from such taxes on the county treasurer in favor 694
of the fee funds or officers personally entitled thereto. ~~If the~~ 695
~~fees and expenses approved by the tax commissioner exceed the~~ 696
~~amount of the state's share of undivided inheritance taxes in the~~ 697
~~county treasury, the county auditor shall certify the amount of~~ 698
~~the excess to the tax commissioner, who shall certify the amount~~ 699
~~to the director of budget and management. The director shall~~ 700
~~provide for payment of the excess from the general revenue fund to~~ 701
~~the county treasury, and the county auditor shall draw warrants on~~ 702
~~the county treasurer in favor of the appropriate fee funds or~~ 703
~~officers.~~ 704

Sec. 5731.48. (A) ~~If a decedent dies on or after July 1,~~ 705
~~1989, and before January 1, 2001, sixty-four per cent of the~~ The 706
gross amount of taxes levied and paid under this chapter shall be 707
for the use of the municipal corporation or township in which the 708
tax originates, and shall be credited as provided in division 709
(A)(1), (2), or (3) of this section: 710

(1) To the general revenue fund in the case of a city; 711

(2) To the general revenue fund of a village or to the board 712
of education of a village, for school purposes, as the village 713
council by resolution may approve; 714

(3) To the general revenue fund or to the board of education 715
of the school district of which the township is a part, for school 716
purposes, as the board of township trustees by resolution may 717
approve, in the case of a township. 718

~~The remainder of the taxes levied and paid shall be for the 719
use of the state and shall be credited to the general revenue fund 720
after any deduction for fees and costs charged under section 721
5731.47 of the Revised Code. 722~~

~~(B) If a decedent dies on or after January 1, 2001, and 723
before January 1, 2002, seventy per cent of the gross amount of 724
taxes levied and paid under this chapter shall be for the use of 725
the municipal corporation or township in which the tax originates 726
and credited as provided in division (A)(1), (2), or (3) of this 727
section, and the remainder shall be for the use of the state and 728
credited to the general revenue fund after any deduction for fees 729
and costs charged under section 5731.47 of the Revised Code. 730~~

~~(C) If a decedent dies on or after January 1, 2002, eighty 731
per cent of the gross amount of taxes levied and paid under this 732
chapter shall be for the use of the municipal corporation or 733
township in which the tax originates and credited as provided in 734
division (A)(1), (2), or (3) of this section, and the remainder 735
shall be for the use of the state and shall be credited to the 736
general revenue fund after any deduction for fees and costs 737
charged under section 5731.47 of the Revised Code. 738~~

~~(D)~~(B) If a municipal corporation is in default with respect 739
to the principal or interest of any outstanding notes or bonds, 740
one half of the taxes distributed under this section shall be 741

credited to the sinking or bond retirement fund of the municipal 742
corporation, and the residue shall be credited to the general 743
revenue fund. 744

~~(E)~~(C) The council, board of trustees, or other legislative 745
authority of a village or township may, by ordinance in the case 746
of a village, or by resolution in the case of a township, provide 747
that whenever there is money in the treasury of the village or 748
township from taxes levied under this chapter, not required for 749
immediate use, that money may be invested in federal, state, 750
county, or municipal bonds, upon which there has been no default 751
of the principal during the preceding five years. 752

Sec. 5731.90. (A)(1) Except as provided in division (A)(2) of 753
this section, to the extent that any of the following are in the 754
possession of a probate court, the department of taxation, a 755
county auditor or county treasurer, the fiscal officer of a 756
municipal corporation or township, the attorney general, or other 757
authorized person as specified in this chapter, the following and 758
any of their contents are confidential; are not subject to 759
inspection or copying as public records pursuant to section 149.43 760
of the Revised Code; and may be inspected or copied by members of 761
the general public only after the probate court of the county in 762
which a return was filed pursuant to this chapter or, if none, 763
another appropriate probate court, has issued an order, based on 764
good cause shown, specifically authorizing the inspection or 765
copying: 766

(a) An estate tax return, generation-skipping tax return, or 767
other tax return filed pursuant to this chapter; 768

(b) All documents and other records that pertain to the 769
determination of a decedent's taxable estate that is the subject 770
of a return as described in division (A)(1)(a) of this section; 771

(c) The amount of the estate, generation-skipping, or other 772

taxes paid or payable in connection with a decedent's taxable
estate as described in division (A)(1)(b) of this section. 773
774

(2) Division (A)(1) of this section does not do any of the
following: 775
776

(a) Preclude the inspection, copying, and use of an estate,
generation-skipping, or other tax return filed pursuant to this
chapter, documents and other records as described in division
(A)(1)(b) of this section, and the amount of the estate,
generation-skipping, or other taxes paid or payable in connection
with a decedent's taxable estate as described in that division, by
the tax commissioner, county auditors and treasurers, fiscal
officers of municipal corporations or townships, probate judges,
the attorney general, and other authorized persons as specified in
this chapter, in connection with their duties and responsibilities
as described in this chapter, including, but not limited to, the
determination and collection of an estate, generation-skipping, or
other tax; 777
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(b) Preclude the tax commissioner from furnishing to the
internal revenue service, in accordance with federal law and in
connection with its official business, a copy of any estate,
generation-skipping, or other tax return, any document or other
record, or the amount of any estate, generation-skipping, or other
tax paid or payable, as described in division (A)(2)(a) of this
section; 790
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~~(c) Apply to the certificates described in division (A)(1)(b)
of section 5731.21 of the Revised Code that, pursuant to division
(A)(5) of that section, are made public records subject to
inspection and copying in accordance with section 149.43 of the
Revised Code;~~ 797
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~~(d) Affect rights of inspection under Chapter 1347. of the
Revised Code by persons who are the subject of personal~~ 802
803

information contained in an estate, generation-skipping, or other 804
tax return, or any document or other record, as described in 805
division (A)(2)(a) of this section. 806

(B) No person shall do any of the following: 807

(1) Permit the inspection or copying of an estate tax return, 808
generation-skipping tax return, or other tax return filed pursuant 809
to this chapter, or documents and other records that pertain to 810
the determination of the decedent's taxable estate that is the 811
subject of the return, except as provided in division (A) of this 812
section; 813

(2) Otherwise divulge information contained in the return or 814
the documents or other records, except as provided in division (A) 815
of this section; 816

(3) Divulge the amount of the estate, generation-skipping, or 817
other taxes paid or payable in connection with the decedent's 818
taxable estate that is the subject of the return, except as 819
provided in division (A) of this section. 820

Section 4. That existing sections 5709.76, 5731.19, 5731.21, 821
5731.23, 5731.26, 5731.27, 5731.28, 5731.33, 5731.37, 5731.38, 822
5731.47, 5731.48, and 5731.90 and section 5731.25 of the Revised 823
Code are hereby repealed. 824

Section 5. That Sections 3 and 4 of this act take effect 825
January 1, 2006. 826

Section 6. The enactment of new section 5731.25, the 827
amendment of sections 5731.19, 5731.21, 5731.23, 5731.25, 5731.26, 828
5731.27, 5731.28, 5731.33, 5731.37, 5731.38, 5731.47, 5731.48, and 829
5731.90, and the repeal of section 5731.25 of the Revised Code by 830
Sections 3 and 4 of this act apply to the estates of decedents 831
dying on or after January 1, 2006. 832

Section 7. Section 5731.21 of the Revised Code is presented 833
in Section 1 of this act as a composite of the section as amended 834
by both Am. Sub. H.B. 313 and Sub. S.B. 108 of the 123rd General 835
Assembly. This is in recognition of the principle stated in 836
division (B) of section 1.52 of the Revised Code that such 837
amendments are to be harmonized where not substantively 838
irreconcilable and constitutes a legislative finding that such is 839
the resulting version in effect prior to the effective date of 840
this act. 841