

As Introduced

**128th General Assembly
Regular Session
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H. B. No. 456

Representative Okey

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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 2
effective January 1, 2011. 3

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 4
Revised Code be amended to read as follows: 5

Sec. 5731.02. (A) A tax is hereby levied on the transfer of 6
the taxable estate, determined as provided in section 5731.14 of 7
the Revised Code, of every person dying on or after July 1, 1968, 8
and before January 1, 2011, who at the time of death was a 9
resident of this state, as follows: 10

If the taxable estate is:	The tax shall be:	
Not over \$40,000	2% of the taxable estate	11
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000	12
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000	13
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000	14
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000	15

Over \$500,000 \$23,600 plus 7% of the excess 17
over \$500,000.

(B) A credit shall be allowed against the tax imposed by 18
division (A) of this section equal to the lesser of five hundred 19
dollars or the amount of the tax for persons dying on or after 20
July 1, 1968, but before January 1, 2001; the lesser of six 21
thousand six hundred dollars or the amount of the tax for persons 22
dying on or after January 1, 2001, but before January 1, 2002; or 23
the lesser of thirteen thousand nine hundred dollars or the amount 24
of the tax for persons dying on or after January 1, 2002. 25

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of 26
so much of the taxable estate of every person dying on or after 27
July 1, 1968, and before January 1, 2011, who, at the time of ~~his~~ 28
death, was not a resident of this state, as consists of real 29
property situated in this state, tangible personal property having 30
an actual situs in this state, and intangible personal property 31
employed in carrying on a business within this state unless 32
exempted from tax under the provisions of section 5731.34 of the 33
Revised Code. 34

(B) The amount of the tax on such real and tangible personal 35
property shall be determined as follows: 36

(1) Determine the amount of tax which would be payable under 37
Chapter 5731. of the Revised Code if the decedent had died a 38
resident of this state with all ~~his~~ the decedent's property 39
situated or located within this state; 40

(2) Multiply the tax so determined by a fraction, the 41
denominator of which shall be the value of the gross estate 42
wherever situated and the numerator of which shall be the said 43
gross estate value of the real property situated and the tangible 44
personal property having an actual situs in this state and 45
intangible personal property employed in carrying on a business 46

within this state and not exempted from tax under section 5731.34 47
of the Revised Code. The product shall be the amount of tax 48
payable to this state. 49

(C) In addition to the tax levied by division (A) of this 50
section, an additional tax is hereby levied on such real and 51
tangible personal property determined as follows: 52

(1) Determine the amount of tax which would be payable under 53
division (A) of section 5731.18 of the Revised Code, if the 54
decedent had died a resident of this state with all ~~his~~ the 55
decedent's property situated or located within this state; 56

(2) Multiply the tax so determined by a fraction, the 57
denominator of which shall be the value of the gross estate 58
wherever situated and the numerator of which shall be the said 59
gross estate value of the real property situated and the tangible 60
property having an actual situs in this state and intangible 61
personal property employed in carrying on a business within this 62
state and not exempted from tax under section 5731.34 of the 63
Revised Code. The product so derived shall be credited with the 64
amount of the tax determined under division (B) of this section. 65

Sec. 5731.21. (A)(1)(a) Except as provided under division 66
(A)(3) of this section, the executor or administrator, or, if no 67
executor or administrator has been appointed, another person in 68
possession of property the transfer of which is subject to estate 69
taxes under section 5731.02 or division (A) of section 5731.19 of 70
the Revised Code, shall file an estate tax return, within nine 71
months of the date of the decedent's death, in the form prescribed 72
by the tax commissioner, in duplicate, with the probate court of 73
the county. The return shall include all property the transfer of 74
which is subject to estate taxes, whether that property is 75
transferred under the last will and testament of the decedent or 76
otherwise. The time for filing the return may be extended by the 77

tax commissioner. 78

(b) The estate tax return described in division (A)(1)(a) of 79
this section shall be accompanied by a certificate, in the form 80
prescribed by the tax commissioner, that is signed by the 81
executor, administrator, or other person required to file the 82
return, and that states all of the following: 83

(i) The fact that the return was filed; 84

(ii) The date of the filing of the return; 85

(iii) The fact that the estate taxes under section 5731.02 or 86
division (A) of section 5731.19 of the Revised Code, that are 87
shown to be due in the return, have been paid in full; 88

(iv) If applicable, the fact that real property listed in the 89
inventory for the decedent's estate is included in the return; 90

(v) If applicable, the fact that real property not listed in 91
the inventory for the decedent's estate, including, but not 92
limited to, survivorship tenancy property as described in section 93
5302.17 of the Revised Code or transfer on death property as 94
described in sections 5302.22 and 5302.23 of the Revised Code, 95
also is included in the return. In this regard, the certificate 96
additionally shall describe that real property by the same 97
description used in the return. 98

(2) The probate court shall forward one copy of the estate 99
tax return described in division (A)(1)(a) of this section to the 100
tax commissioner. 101

(3) A person shall not be required to file a return under 102
division (A) of this section if the decedent was a resident of 103
this state and the value of the decedent's gross estate is 104
twenty-five thousand dollars or less in the case of a decedent 105
dying on or after July 1, 1968, but before January 1, 2001; two 106
hundred thousand dollars or less in the case of a decedent dying 107

on or after January 1, 2001, but before January 1, 2002; or three 108
hundred thirty-eight thousand three hundred thirty-three dollars 109
or less in the case of a decedent dying on or after January 1, 110
2002. No return shall be filed for estates of decedents dying on 111
or after January 1, 2011. 112

(4)(a) Upon receipt of the estate tax return described in 113
division (A)(1)(a) of this section and the accompanying 114
certificate described in division (A)(1)(b) of this section, the 115
probate court promptly shall give notice of the return, by a form 116
prescribed by the tax commissioner, to the county auditor. The 117
auditor then shall make a charge based upon the notice and shall 118
certify a duplicate of the charge to the county treasurer. The 119
treasurer then shall collect, subject to division (A) of section 120
5731.25 of the Revised Code or any other statute extending the 121
time for payment of an estate tax, the tax so charged. 122

(b) Upon receipt of the return and the accompanying 123
certificate, the probate court also shall forward the certificate 124
to the auditor. When satisfied that the estate taxes under section 125
5731.02 or division (A) of section 5731.19 of the Revised Code, 126
that are shown to be due in the return, have been paid in full, 127
the auditor shall stamp the certificate so forwarded to verify 128
that payment. The auditor then shall return the stamped 129
certificate to the probate court. 130

(5)(a) The certificate described in division (A)(1)(b) of 131
this section is a public record subject to inspection and copying 132
in accordance with section 149.43 of the Revised Code. It shall be 133
kept in the records of the probate court pertaining to the 134
decedent's estate and is not subject to the confidentiality 135
provisions of section 5731.90 of the Revised Code. 136

(b) All persons are entitled to rely on the statements 137
contained in a certificate as described in division (A)(1)(b) of 138
this section if it has been filed in accordance with that 139

division, forwarded to a county auditor and stamped in accordance 140
with division (A)(4) of this section, and placed in the records of 141
the probate court pertaining to the decedent's estate in 142
accordance with division (A)(5)(a) of this section. The real 143
property referred to in the certificate shall be free of, and may 144
be regarded by all persons as being free of, any lien for estate 145
taxes under section 5731.02 and division (A) of section 5731.19 of 146
the Revised Code. 147

(B) An estate tax return filed under this section, in the 148
form prescribed by the tax commissioner, and showing that no 149
estate tax is due shall result in a determination that no estate 150
tax is due, if the tax commissioner within three months after the 151
receipt of the return by the department of taxation, fails to file 152
exceptions to the return in the probate court of the county in 153
which the return was filed. A copy of exceptions to a return of 154
that nature, when the tax commissioner files them within that 155
period, shall be sent by ordinary mail to the person who filed the 156
return. The tax commissioner is not bound under this division by a 157
determination that no estate tax is due, with respect to property 158
not disclosed in the return. 159

(C) If the executor, administrator, or other person required 160
to file an estate tax return fails to file it within nine months 161
of the date of the decedent's death, the tax commissioner may 162
determine the estate tax in that estate and issue a certificate of 163
determination in the same manner as is provided in division (B) of 164
section 5731.27 of the Revised Code. A certificate of 165
determination of that nature has the same force and effect as 166
though a return had been filed and a certificate of determination 167
issued with respect to the return. 168

Section 2. That existing sections 5731.02, 5731.19, and 169
5731.21 of the Revised Code are hereby repealed. 170