

**As Introduced**

**128th General Assembly  
Regular Session  
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**H. B. No. 61**

**Representatives Hottinger, Grossman**

**Cosponsors: Representatives Adams, J., Huffman, Boose, Jordan, Uecker,  
Coley, Hackett, Stebelton, Bulp, Sears**

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**A B I L L**

To amend sections 5731.02, 5731.21, and 5731.48 and 1  
to enact sections 5731.55 and 5731.56 of the 2  
Revised Code to reduce the estate tax by 3  
increasing the credit amount, to authorize 4  
townships and municipal corporations, or electors 5  
thereof by initiative, to exempt from the estate 6  
tax any estate property located in the township or 7  
municipal corporation, and to distribute all 8  
estate tax revenue originating in a township or 9  
municipal corporation that does not exempt 10  
property from the tax to the township or municipal 11  
corporation. 12

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

**Section 1.** That sections 5731.02, 5731.21, and 5731.48 be 13  
amended and sections 5731.55 and 5731.56 of the Revised Code be 14  
enacted to read as follows: 15

**Sec. 5731.02.** (A) A tax is hereby levied on the transfer of 16  
the taxable estate, determined as provided in section 5731.14 of 17  
the Revised Code, of every person dying on or after July 1, 1968, 18

who at the time of death was a resident of this state, as follows:		19
If the taxable estate is:	The tax shall be:	20
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 fifteen thousand five~~ 33  
~~hundred seventy-five dollars or the amount of the tax for persons~~ 34  
~~dying on or after January 1, 2002 July 1, 2009. In December of~~ 35  
~~each year, beginning in 2010, the tax commissioner shall compute~~ 36  
~~the percentage increase in the consumer price index for all urban~~ 37  
~~consumers (United States city average, all items) prepared by the~~ 38  
~~United States department of labor, bureau of labor statistics, for~~ 39  
~~the twelve-month period ending on the preceding thirtieth day of~~ 40  
~~September, and adjust the credit amount by multiplying the credit~~ 41  
~~amount for the current year by the percentage increase in the~~ 42  
~~consumer price index for that period, adding the resulting product~~ 43  
~~to the credit amount for the current year, and rounding upward to~~ 44  
~~the nearest multiple of five dollars. The resulting amount is the~~ 45  
~~credit amount for the estates of decedents dying in the ensuing~~ 46

calendar year. 47

(C) If a resolution or ordinance adopted under section 48  
5731.55 of the Revised Code is in effect on the date of the 49  
decedent's death, the tax levied under this section on the 50  
transfer of the decedent's estate shall be reduced by an amount 51  
equal to the tax that originates in that township or municipal 52  
corporation. 53

**Sec. 5731.21.** (A)(1)(a) Except as provided under division 54  
(A)(3) of this section, the executor or administrator, or, if no 55  
executor or administrator has been appointed, another person in 56  
possession of property the transfer of which is subject to estate 57  
taxes under section 5731.02 or division (A) of section 5731.19 of 58  
the Revised Code, shall file an estate tax return, within nine 59  
months of the date of the decedent's death, in the form prescribed 60  
by the tax commissioner, in duplicate, with the probate court of 61  
the county. The return shall include all property the transfer of 62  
which is subject to estate taxes, whether that property is 63  
transferred under the last will and testament of the decedent or 64  
otherwise. The time for filing the return may be extended by the 65  
tax commissioner. 66

(b) The estate tax return described in division (A)(1)(a) of 67  
this section shall be accompanied by a certificate, in the form 68  
prescribed by the tax commissioner, that is signed by the 69  
executor, administrator, or other person required to file the 70  
return, and that ~~states~~ includes all of the following: 71

(i) ~~The fact~~ A statement that the return was filed; 72

(ii) The date of the filing of the return; 73

(iii) ~~The fact~~ A statement that the estate taxes under 74  
section 5731.02 or division (A) of section 5731.19 of the Revised 75  
Code, that are shown to be due in the return, have been paid in 76

full; 77

(iv) If applicable, ~~the fact~~ a statement that real property 78  
listed in the inventory for the decedent's estate is included in 79  
the return; 80

(v) If applicable, ~~the fact~~ a statement that real property 81  
not listed in the inventory for the decedent's estate, including, 82  
but not limited to, survivorship tenancy property as described in 83  
section 5302.17 of the Revised Code or transfer on death property 84  
as described in sections 5302.22 and 5302.23 of the Revised Code, 85  
also is included in the return. In this regard, the certificate 86  
additionally shall describe that real property by the same 87  
description used in the return; 88

(vi) If applicable, a list of all property in the inventory 89  
exempted from estate tax under a resolution or ordinance adopted 90  
pursuant to section 5731.55 of the Revised Code, and for each item 91  
of property, the municipal corporation or township in which the 92  
tax on the property would have originated if the property had not 93  
been exempted. 94

(2) The probate court shall forward one copy of the estate 95  
tax return described in division (A)(1)(a) of this section to the 96  
tax commissioner. 97

(3) A person shall not be required to file a return under 98  
division (A) of this section if the decedent was a resident of 99  
this state and the value of the decedent's gross estate is 100  
~~twenty five thousand dollars or less in the case of a decedent 101  
dying on or after July 1, 1968, but before January 1, 2001; two 102  
hundred thousand dollars or less in the case of a decedent dying 103  
on or after January 1, 2001, but before January 1, 2002; or three 104  
hundred thirty eight thousand three hundred thirty three three 105  
hundred sixty-six thousand two hundred fifty dollars or less in 106  
the case of a decedent dying on or after ~~January 1, 2002~~ July 1, 107~~

2009. In December of each year, beginning in 2010, after the tax commissioner has adjusted the credit amount under division (B) of section 5731.02 of the Revised Code, the commissioner shall compute the taxable estate value upon which the tax imposed by division (A) of that section, before applying the credit, equals the credit amount computed under division (B) of that section. A person is not required to file a return under division (A) of this section if the decedent is a resident of this state, the decedent dies in the following calendar year, and the value of the decedent's gross estate is less than the value computed by the commissioner.

(4)(a) Upon receipt of the estate tax return described in division (A)(1)(a) of this section and the accompanying certificate described in division (A)(1)(b) of this section, the probate court promptly shall give notice of the return, by a form prescribed by the tax commissioner, to the county auditor. The auditor then shall make a charge based upon the notice and shall certify a duplicate of the charge to the county treasurer. The treasurer then shall collect, 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 so charged.

(b) Upon receipt of the return and the accompanying certificate, the probate court also shall forward the certificate to the auditor. When satisfied 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, the auditor shall stamp the certificate so forwarded to verify that payment. The auditor then shall return the stamped certificate to the probate court.

(5)(a) The certificate described in division (A)(1)(b) of this section is a public record subject to inspection and copying in accordance with section 149.43 of the Revised Code. It shall be

kept in the records of the probate court pertaining to the 140  
decedent's estate and is not subject to the confidentiality 141  
provisions of section 5731.90 of the Revised Code. 142

(b) All persons are entitled to rely on the statements 143  
contained in a certificate as described in division (A)(1)(b) of 144  
this section if it has been filed in accordance with that 145  
division, forwarded to a county auditor and stamped in accordance 146  
with division (A)(4) of this section, and placed in the records of 147  
the probate court pertaining to the decedent's estate in 148  
accordance with division (A)(5)(a) of this section. The real 149  
property referred to in the certificate shall be free of, and may 150  
be regarded by all persons as being free of, any lien for estate 151  
taxes under section 5731.02 and division (A) of section 5731.19 of 152  
the Revised Code. 153

(B) An estate tax return filed under this section, in the 154  
form prescribed by the tax commissioner, and showing that no 155  
estate tax is due shall result in a determination that no estate 156  
tax is due, if the tax commissioner within three months after the 157  
receipt of the return by the department of taxation, fails to file 158  
exceptions to the return in the probate court of the county in 159  
which the return was filed. A copy of exceptions to a return of 160  
that nature, when the tax commissioner files them within that 161  
period, shall be sent by ordinary mail to the person who filed the 162  
return. The tax commissioner is not bound under this division by a 163  
determination that no estate tax is due, with respect to property 164  
not disclosed in the return. 165

(C) If the executor, administrator, or other person required 166  
to file an estate tax return fails to file it within nine months 167  
of the date of the decedent's death, the tax commissioner may 168  
determine the estate tax in that estate and issue a certificate of 169  
determination in the same manner as is provided in division (B) of 170  
section 5731.27 of the Revised Code. A certificate of 171

determination of that nature has the same force and effect as 172  
though a return had been filed and a certificate of determination 173  
issued with respect to the return. 174

**Sec. 5731.48.** (A) If a decedent dies on or after July 1, 175  
1989, and before January 1, 2001, sixty-four per cent of the gross 176  
amount of taxes levied and paid under this chapter shall be for 177  
the use of the municipal corporation or township in which the tax 178  
originates, and shall be credited as provided in division (A)(1), 179  
(2), or (3) of this section: 180

(1) To the general revenue fund in the case of a city; 181

(2) To the general revenue fund of a village or to the board 182  
of education of a village, for school purposes, as the village 183  
council by resolution may approve; 184

(3) To the general revenue fund or to the board of education 185  
of the school district of which the township is a part, for school 186  
purposes, as the board of township trustees by resolution may 187  
approve, in the case of a township. 188

The remainder of the taxes levied and paid shall be for the 189  
use of the state and shall be credited to the general revenue 190  
fund. 191

(B) If a decedent dies on or after ~~January 1, 2001, and~~ 192  
~~before~~ January 1, 2002, seventy and before July 1, 2009, eighty 193  
per cent of the gross amount of taxes levied and paid under this 194  
chapter shall be for the use of the municipal corporation or 195  
township in which the tax originates and credited as provided in 196  
division (A)(1), (2), or (3) of this section, and the remainder 197  
shall be for the use of the state and credited to the general 198  
revenue fund. 199

(C) If a decedent dies on or after ~~January 1, 2002, eighty~~ 200  
July 1, 2009, one hundred per cent of the gross amount of taxes 201

levied and paid under this chapter, less any deduction from the 202  
municipal corporation's or township's share of those taxes for 203  
fees or expenses charged under section 5731.47 of the Revised 204  
Code, shall be for the use of the municipal corporation or 205  
township in which the tax originates and credited as provided in 206  
division (A)(1), (2), or (3) of this section, ~~and the remainder,~~ 207  
~~less any deduction from the state's share of those taxes for fees~~ 208  
~~or expenses charged under section 5731.47 of the Revised Code,~~ 209  
~~shall be for the use of the state and shall be credited to the~~ 210  
~~general revenue fund.~~ 211

If a resolution or ordinance adopted under section 5731.55 of 212  
the Revised Code is in effect on the date of the decedent's death, 213  
no taxes shall be considered to have originated in that township 214  
or municipal corporation for the purposes of this section. 215

(D) If a municipal corporation is in default with respect to 216  
the principal or interest of any outstanding notes or bonds, one 217  
half of the taxes distributed under this section shall be credited 218  
to the sinking or bond retirement fund of the municipal 219  
corporation, and the residue shall be credited to the general 220  
revenue fund. 221

(E) The council, board of trustees, or other legislative 222  
authority of a village or township may, by ordinance in the case 223  
of a village, or by resolution in the case of a township, provide 224  
that whenever there is money in the treasury of the village or 225  
township from taxes levied under this chapter, not required for 226  
immediate use, that money may be invested in federal, state, 227  
county, or municipal bonds, upon which there has been no default 228  
of the principal during the preceding five years. 229

Sec. 5731.55. (A) Unless an ordinance or resolution 230  
previously adopted under this section has been repealed by 231  
initiative petition under section 5731.56 of the Revised Code, the 232



legislative authority of a municipal corporation may adopt an 233  
ordinance or resolution, or the board of township trustees of a 234  
township may adopt a resolution, exempting estate property in the 235  
municipal corporation or township from the taxes levied under this 236  
chapter. If the ordinance or resolution is adopted, the exemption 237  
shall take effect as provided in the ordinance or resolution but 238  
not before the first day of the first month that begins after the 239  
ordinance or resolution is adopted. 240

(B)(1) An ordinance or resolution exempting estate property 241  
in the municipal corporation from the taxes levied under this 242  
chapter may be proposed by an initiative petition in accordance 243  
with sections 731.28 and 731.31 to 731.40 of the Revised Code 244  
except that, if the ordinance or resolution is adopted, the 245  
exemption shall take effect as provided in the ordinance or 246  
resolution but not before the first day of the first month that 247  
begins after the ordinance or resolution is adopted. 248

(2) A resolution exempting estate property from the taxes 249  
levied under this chapter may be proposed by an initiative 250  
petition under the same circumstances and in the same manner as 251  
provided by sections 731.28 and 731.31 to 731.40 of the Revised 252  
Code for municipal corporations, except that each of the following 253  
applies: 254

(a) The term "township" shall be substituted for the terms 255  
"municipal corporation" and "city or village," the term "board of 256  
township trustees" shall be substituted for "legislative authority 257  
of the municipal corporation," the term "township fiscal officer" 258  
shall be substituted for "city auditor" or "village clerk," and 259  
the term "resolution" shall be substituted for "ordinance." 260

(b) The petition shall contain the signatures of not less 261  
than ten per cent of the total number of electors in the 262  
unincorporated area of the township who voted for the office of 263  
governor at the most recent general election for that office in 264

that area of the township. 265

If the resolution is adopted, the exemption shall take effect 266  
as provided in the resolution but not before the first day of the 267  
first month that begins after the resolution is adopted. 268

(C) The form of the ballot in an election held pursuant to 269  
division (B)(1) or (2) of this section shall be as follows, or in 270  
any other form acceptable to the secretary of state: 271

"Shall the ..... (name of township or municipal 272  
corporation) exempt estate property located in ..... (the 273  
township or municipal corporation) from the Ohio estate tax?" 274

(D) If a resolution or ordinance is adopted under this 275  
section, the legislative authority or board of township trustees 276  
shall provide written notice of the adoption of the resolution or 277  
ordinance to the tax commissioner within ten days after the date 278  
of the adoption. The tax commissioner shall keep a record of all 279  
municipal corporations and townships that have provided such a 280  
notice, shall make the record available for public inspection, and 281  
shall publish it in a manner convenient to the tax commissioner. 282

**Sec. 5731.56.** (A) If the legislative authority of a municipal 283  
corporation or the board of township trustees of a township have 284  
adopted a resolution or ordinance under division (A) of section 285  
5731.55 of the Revised Code exempting estate property in the 286  
municipal corporation or township from the taxes levied under this 287  
chapter, the legislative authority or board of township trustees 288  
may adopt a resolution or ordinance repealing the exemption. If 289  
such a resolution or ordinance is adopted, the transfer of estate 290  
property in the municipal corporation or township shall not be 291  
exempted from the taxes levied under this chapter effective on the 292  
date specified in the resolution or ordinance, but that date shall 293  
not be earlier than the first day of the first month that begins 294  
after the resolution or ordinance is adopted. 295

(B)(1) A resolution or ordinance repealing the exemption of 296  
estate property from taxation enacted for a municipal corporation 297  
under section 5731.55 of the Revised Code may be proposed by 298  
initiative petition. The initiative petition shall be proposed in 299  
accordance with sections 731.28 and 731.31 to 731.40 of the 300  
Revised Code except that, if the resolution or ordinance is 301  
adopted, the repeal of the exemption shall take effect as provided 302  
in the resolution or ordinance, but not before the first day of 303  
the first month that begins after the resolution or ordinance is 304  
adopted. 305

(2) A resolution repealing the exemption of estate property 306  
from taxation enacted for a township under section 5731.55 of the 307  
Revised Code may be proposed by initiative petition. The 308  
initiative petition shall be proposed under the same circumstances 309  
and in the same manner as provided by sections 731.28 and 731.31 310  
to 731.40 of the Revised Code for municipal corporations, except 311  
as provided in division (B)(2)(a) and (b) of section 5731.55 of 312  
the Revised Code. If the resolution is adopted, the repeal of the 313  
exemption shall take effect as provided in the resolution, but not 314  
before the first day of the first month that begins after the 315  
resolution is adopted. 316

(C) The form of the ballot in an election held pursuant to 317  
division (B)(1) or (2) of this section shall be as follows, or in 318  
any other form acceptable to the secretary of state: 319

"Shall the exemption from the Ohio estate tax of estate 320  
property in ..... (name of township or municipal 321  
corporation) be repealed?" 322

(D) If a resolution or ordinance is adopted under this 323  
section, the legislative authority or board of township trustees 324  
shall provide written notice of the adoption of the resolution or 325  
ordinance to the tax commissioner within ten days after the date 326  
of the adoption. The tax commissioner shall remove the municipal 327

corporation or township from the record of municipal corporations 328  
and townships that have adopted resolutions or ordinances under 329  
section 5731.55 of the Revised Code. 330

**Section 2.** That existing sections 5731.02, 5731.21, and 331  
5731.48 of the Revised Code are hereby repealed. 332

**Section 3.** The amendment by this act of sections 5731.02, 333  
5731.21, and 5731.48 of the Revised Code applies to the estates of 334  
decedents dying on or after July 1, 2009. 335