

As Introduced

**129th General Assembly
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S. B. No. 16

Senator Wilson

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A B I L L

To amend section 5731.15 of the Revised Code to 1
exempt from the gross estate the value of real 2
property subject to agricultural or conservation 3
easements for the purpose of calculating a 4
decedent's estate tax liability. 5

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

Section 1. That section 5731.15 of the Revised Code be 6
amended to read as follows: 7

Sec. 5731.15. For purposes of the tax levied by section 8
5731.02 of the Revised Code, the value of the taxable estate shall 9
be determined by deducting from the value of the gross estate: 10

(A) If the decedent dies on or after July 1, 1993 and is 11
survived by a spouse, a marital deduction which shall be allowed 12
in an amount equal to the value of any interest in property that 13
passes or has passed from the decedent to the surviving spouse, 14
but only to the extent the interest is included in the value of 15
the gross estate. For purposes of the marital deduction, an 16
interest in property shall be considered as passing or as having 17
passed from the decedent to the surviving spouse only if one or 18
more of the following apply: 19

(1) The interest was bequeathed or devised to the surviving 20

spouse in the will of the decedent;	21
(2) The interest was inherited by the surviving spouse through intestate succession from the decedent;	22 23
(3) The interest is a dower interest of the surviving spouse, or the interest is an estate of the surviving spouse that is authorized by the Revised Code and that is in lieu of dower;	24 25 26
(4) The decedent transferred the interest to the surviving spouse at any time;	27 28
(5) At the time of the death of the decedent, the interest was held by the decedent and the surviving spouse, or by the decedent, the surviving spouse, and one or more other persons, in any form of joint ownership with a right of survivorship;	29 30 31 32
(6) The decedent, alone or in conjunction with any other person, had a power to appoint the interest and the interest was so appointed to the surviving spouse, or the surviving spouse acquired the interest as a result of the release or the nonexercise of the power.	33 34 35 36 37
(B)(1) In addition to the marital deduction provided by division (A) of this section, if an election is made in accordance with division (B)(2) of this section and the decedent dies on or after July 1, 1993, a qualified terminable interest property deduction. This deduction shall be allowed in an amount equal to all or any specific portion of qualified terminable interest property treated as separate property, but only to the extent that the property is included in the value of the gross estate.	38 39 40 41 42 43 44 45
(2) An election to have property treated as qualified terminable interest property for purposes of the deduction provided by division (B)(1) of this section shall be made by the person filing the estate tax return under this chapter, in writing, on or before the date by which the return is required to be filed, determined with regard to any extension of time granted	46 47 48 49 50 51

for the filing of the return. The election shall specify whether 52
all or only a specific portion of qualified terminable interest 53
property treated as separate property shall be taken into account 54
in determining the deduction. If an election as provided in this 55
division is made, the election is irrevocable. 56

(3) As used in divisions (B)(1) and (2) of this section, 57
"qualified terminable interest property" means property that 58
satisfies all of the following: 59

(a) It is included in the value of the gross estate; 60

(b) It passes from the decedent to the surviving spouse of 61
the decedent; 62

(c) It is property in which the surviving spouse of the 63
decedent has a qualifying interest for life. For purposes of this 64
division, the surviving spouse has a qualifying interest for life 65
if both of the following apply: 66

(i) The surviving spouse is entitled to all income from the 67
property, which income is payable annually or at more frequent 68
intervals. 69

(ii) No person has a power to appoint any part of the 70
property to any person other than the surviving spouse. This 71
division shall not apply to a power that is exercisable only at or 72
after the death of the surviving spouse. 73

(C) The pay and allowances determined by the United States to 74
be due to a member of the armed forces for active duty in Vietnam 75
service for the period between the date declared by the United 76
States as the beginning of ~~his~~ the member's missing in action 77
status to the date of ~~his~~ the member's death as determined by the 78
United States. As used in this division, "Vietnam service" means 79
military service within the Republic of Vietnam during the period 80
between February 28, 1961, to July 1, 1973, or military service in 81
southeast Asia for which hostile fire pay was awarded pursuant to 82

37 U.S.C. 310, during the period February 28, 1961, to July 1,
1973.

(D)(1) The value of the decedent's real property that, on the
date of the decedent's death, is any of the following:

(a) Subject to a conservation easement granted in perpetuity
to the department of natural resources, a park district created
under Chapter 1545. of the Revised Code, a township park district
created under section 511.18 of the Revised Code, a conservancy
district created under Chapter 6101. of the Revised Code, a soil
and water conservation district created under Chapter 1515. of the
Revised Code, a county, a township, a municipal corporation, the
federal government or an agency or instrumentality thereof, or a
charitable organization that is authorized to hold conservation
easements by division (B) of section 5301.69 of the Revised Code;

(b) Subject to an agricultural easement granted in perpetuity
to the director of agriculture, a municipal corporation, county,
township, soil and water conservation district, the federal
government or an agency or instrumentality thereof, or to a
charitable organization described in division (B) of section
5301.69 of the Revised Code;

(c) Enrolled in an agricultural security area under Chapter
931. of the Revised Code.

(2) As used in division (D) of this section, "conservation
easement" and "agricultural easement" have the same meanings as in
section 5301.67 of the Revised Code.

Section 2. That existing section 5731.15 of the Revised Code
is hereby repealed.

Section 3. The amendment by this act of section 5731.15 of
the Revised Code applies to the estates of decedents who die on or
after the effective date of this act.