Bill Analysis

Bethany Boyd *Legislative Service Commission*

S.B. 108

123rd General Assembly
(As Introduced)

Sens. Latta, Oelslager, Watts, Blessing, Mumper, White, Nein, Wachtmann, Cupp, Hottinger, Carnes, Armbruster, Spada

BILL SUMMARY

- Reduces the state estate tax, and phases out the state's share of revenues from the tax, by 36% over five years, beginning January 1, 2000.

CONTENT AND OPERATION

Overview of state estate tax law

(Chapter 5731.)

The Ohio estate tax consists of four separate levies: a levy on Ohio residents' estates, a levy on the portion of nonresidents' estates that are located in Ohio, and two "pick-up" taxes equal to the credits that the federal government gives for estate taxes paid to a state. One of the pick-up taxes is levied on Ohio residents' estates and the other is levied on generation-skipping transfers (transfers of property to a person that is two or more generations below the transferor, such as from a grandparent to a grandchild).

Estate tax on residents' and nonresidents' estates

(sec. 5731.02; sec. 5731.19, not in bill)

The estate tax on resident and nonresident estates is levied on the value of the taxable estate, which generally is the value of all property in which the decedent had an interest on the date of death (the "gross estate"), minus deductions for certain debts, funeral expenses, estate administration expenses, and property in which the surviving spouse has an income interest for life and the sole power to appoint the property to someone else ("qualified terminable interest property"). Additionally, certain transfers of property, including to governments or charitable organizations, or property transferred directly to a surviving spouse, qualify as deductions from the gross estate.

Under current law, the tax is levied on a taxable estate (the gross estate minus the deductions) at graduated rates, through six taxable estate brackets, ranging from 2% for taxable estates of $40,000 or less, to 7% for estates of over $500,000. Each estate receives a tax credit of $500 or the amount of taxes due, whichever is less. In effect, this credit excludes estates valued at $25,000 or less from bearing any tax liability.

The bill reduces the tax on taxable estates by 36% over a five-year period, beginning in calendar year 2000. The decrease reaches the full 36% reduction for persons dying on or after January 1, 2004.

Ohio's pick-up tax for residents' estates

(sec. 5731.18)

Ohio takes advantage of a federal credit for state estate tax payments by imposing a "pick-up" tax on the estates of deceased Ohio residents. Under federal law (26 U.S.C. §2011), a credit is given against the federal estate tax for any estate tax or other death tax paid to a state or the District of Columbia. The credit is subject to limits that increase as the value of the estate increases. For example, an estate with a federal taxable value of $1 million is entitled to a federal credit of up to $33,200; an estate with a federal taxable value of $4 million is entitled to a credit of up to $280,400. These are **maximum** credits; if the amount of estate tax paid to Ohio is less than the maximum allowable federal credit, then the credit equals the amount of state tax paid.

Ohio's pick-up tax is equal to the difference between the state tax liability and the estate's maximum federal credit. The effect of the pick-up tax is to allow Ohio to collect more tax from the estate without increasing the estate's combined federal/state tax liability; the federal tax liability is reduced by the amount of the additional Ohio tax liability. The amount of tax paid under the Ohio estate tax on residents' estates and the amount of estate or other death taxes paid to another state are credited toward the state pick-up tax.

The bill reduces this pick-up tax by 36% over five years. The tax is calculated as under existing law (an amount equal to the maximum federal credit), but is multiplied by a reduction factor, as follows, to determine the tax due:

If the person died:	**The factor shall be:**
In calendar year 2000	.928

In calendar year 2001	.856
In calendar year 2002	.784
In calendar year 2003	.712
On or after January 1, 2004	.640

Ohio's pick-up tax for generation-skipping transfers

(sec. 5731.181)

The generation-skipping tax takes advantage of a federal law (26 U.S.C. §§2601-2624) that allows a state credit against federal estate tax liability on generation-skipping transfers of property for taxes paid to a state for property included in the transfers. The tax is levied on such a transfer in Ohio, other than a direct skip (a transfer subject to federal estate taxes or gift taxes), that occurs at the same time as, and as a result of, an individual's death. The Ohio tax is equal to the federal credit, not to exceed 5% of the generation-skipping transfer tax imposed on the transfer under federal law.

The pick-up tax applicable to generation-skipping transfers also is reduced 36% over five years by the bill. The tax is calculated as under existing law, but is subject to the same reduction factors set forth in the above table, for the same calendar years.

Estate taxes returned to municipal corporations and townships

(sec. 5731.48)

Under existing law, the state receives 36% of the estate tax revenues, less costs of administration, and municipal corporations and townships in which the tax originates receive 64% of the revenues from the tax. Over a five-year period, the bill increases the percentage of estate taxes that are returned to municipal corporations and townships, and eliminates the state share. If the date of death is before January 1, 2000, the local share remains at 64%. For the next five years, the share increases as follows:

If the date of death is:	**The percentage shall be:**
During calendar year 2000	68.9

During calendar year 2001	74.8
During calendar year 2002	81.6
During calendar year 2003	89.9
On or after January 1, 2004	100

The result of this percentage change is that by 2004, the state will give up its 36% share of the tax, but municipal corporations and townships will retain an amount that equals their original 64% share of the tax (the tax is reduced by 36%, but they receive 100% of the tax under the bill).

Payment of fees and expenses arising from administration of the estate tax law

(secs. 5731.47 and 5731.48)

The sheriff's office and county auditor receive fees and expenses for services performed under the estate tax law. These fees and expenses are charged against the state's share of the estate tax revenues. The bill provides that if these costs and expenses exceed the state's share, the excess must be charged to the shares of the municipal corporations and townships in which the tax originated in proportion to their shares.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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