*Bill Analysis*

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# Sub. S.B. 108

123rd General Assembly
(As Passed by the Senate)

**Sens.** **Latta, Oelslager, Watts, Blessing, Mumper, White, Nein, Wachtmann, Cupp, Hottinger, Carnes, Armbruster, Spada, Johnson, Drake, Ray, Gardner, Schafrath, Horn, DiDonato, Kearns**

## BILL SUMMARY


- Reduces estate tax rates by 36% for estates that do not exceed the federal exemption amount ($675,000 in 2001 increasing to $1 million in 2006), and increases the amount of the estate tax credit from $500 to $1,000.

- Holds municipal corporations and townships harmless from the effects of the rate reduction, by eliminating the state's share of tax revenue for estates that do not exceed the federal exemption amount.

- Requires a reduction in the surplus state revenue to be transferred to the Income Tax Reduction Fund in July, 2000 by the estimated amount by which the bill's provisions will result in reduced FY 2001 GRF receipts.


## CONTENT AND OPERATION

### ***The state estate tax***

#### ***Overview***

(Chapter 5731.)

The Ohio estate tax consists of four separate levies: the main levy on Ohio residents' estates, a levy on the portion of a nonresident's estate that is 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 (of property to a person that is two or more generations below the transferor, such as from a grandparent to a grandchild).

***Reduction of the tax on residents' estates***

(sec. 5731.02)

The main levy on Ohio residents' 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, minus certain deductions. 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. Under current law, the tax is levied at graduated rates, through six tax brackets, ranging from 2% for taxable estates of $40,000 or less, to $23,600 plus 7% of the excess over $500,000 for estates of more than $500,000.

The bill reduces estate tax rates by 36% for all but the largest estates, for persons dying on or after January 1, 2001, and also increases the estate tax credit from the lesser of $500 or tax due to the lesser of $1,000 or tax due. (The increase in the credit amount applies for estates of persons dying on or after the bill's effective date.) The combined effect of the lower rates and higher credit is to exclude estates valued at $65,416 or less from any tax liability. To give another example of the bill's effect, under current law, a taxable estate of $100,000 owes tax of $2,100 ($2,600 minus the $500 credit). Under the bill, the same estate owes tax of $664 ($1,664 minus the $1,000 credit).

The bill adds an upper limit to the sixth tax bracket that under current law applies to all taxable estates over $500,000. Under the bill, this bracket applies to estates over $500,000 but not over the "federal exemption amount." A seventh tax bracket is created for estates valued over that amount. The bill defines the "federal exemption amount" as the amount of an estate that is excluded from federal estate taxes. Under federal law, the federal exemption amount for 2000 and 2001 is $675,000. It increases each year until 2006 when it reaches $1 million for that year and thereafter (26 U.S.C. §2010). The Ohio estate tax for this additional bracket is the amount of state tax on the part of the estate that is less than the federal exemption amount ($15,104 plus 4.48% of the excess of the federal exemption amount over $500,000), plus 7% of the part of the estate that exceeds the federal exemption amount. Thus, in 2001, a taxable estate of $700,000 would be liable for Ohio estate taxes of $23,694: $15,104 + $7,840 (4.48% of $175,000) + $1,750 (7% of $25,000) - $1,000 tax credit. Under current law, the same estate would owe tax of $37,100: $37,600 tax before credit - $500 credit.

***Change in distribution formula for estate tax revenue***

(sec. 5731.48)

Under existing law, municipal corporations and townships in which the estate tax originates receive 64% of the gross amount of estate taxes levied and paid, and the state receives the remainder of the estate tax revenues, less fees and costs charged by sheriffs and county auditors for administering the tax, discussed below. The bill provides that if a decedent dies on or after January 1, 2001, **all** of the estate taxes levied and paid on the part of the taxable estate that is not in excess of the federal exclusion amount (discussed above) for the year in which the decedent dies must be credited to the municipal corporation or township in which the tax originates. The 64% local/36% state split of the tax revenues collected for decedents dying after January 1, 2001, occurs only for taxes paid on the part of the taxable estate that exceeds the federal exclusion amount.

The effect of the change in the revenue distribution formula is to hold municipal corporations and townships harmless from the effects of the bill's tax rate reductions. Local revenue will be affected by the bill's increase in the tax credit to the lesser of $1,000 or tax due.

***Payment of fees and expenses for administration of the estate tax***

(sec. 5731.47)

The sheriff or other officers and the county auditor receive fees and expenses for services performed under the estate tax law. Under current law, these fees and expenses are charged against the state's share of undivided inheritance taxes in the county treasury. The bill provides that if such fees and expenses exceed the amount of the state's share, the county auditor must certify the amount of the excess to the Tax Commissioner, who must certify the amount to the Director of Budget and Management for payment from the General Revenue Fund to the county treasury. The county auditor then must draw warrants on the county treasurer in favor of the appropriate fee funds or officers.

***One-time reduction of surplus revenue***

(Section 3)

Under continuing law, the Director of Budget and Management determines surplus state revenue by July 31 each year and transfers part of the surplus to the Income Tax Reduction Fund, to be used to reduce state income taxes. The bill requires a one-time reduction in the surplus state revenue, in an amount that accounts for the bill's estate tax reduction. By July 31, 2000, the Tax Commissioner must estimate the amount by which fiscal year 2001 GRF receipts from the estate tax will be less than the amount the receipts would be if the bill did reduce that tax. The Tax Commissioner must certify the amount to the Director of Budget and Management, who must subtract the amount from the fiscal year 2000 surplus revenue that otherwise would be transferred to the Income Tax Reduction Fund. (As it is currently written, the bill will not take effect by July 31, 2000, so this provision will need to be modified if it is to operate as intended.)

## HISTORY

| ACTION | DATE | JOURNAL ENTRY | |
|---|---|---|---|
| Introduced | 03-16-99 | p. | 205 |
| Reported, S. Ways & Means | 05-17-00 | p. | 1727 |
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