

SAMPLE – NOT FOR CIRCULATION

Petition Number: _____

County: _____

Issued to: _____

Date of Issuance: _____

INITIATIVE PETITION

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Law proposed by initiative petition first to be submitted to the General Assembly.

TITLE

THE OHIO ESTATE TAX ELIMINATION ACT

SUMMARY

The law proposed by this Initiative Petition entitled the Ohio Estate Tax Elimination Act (hereinafter “the Act”) would eliminate the Ohio taxes levied upon the transfer of the estate of decedents dying on or after December 31, 2012. The Act specifically adds the following provisions:

- (1) Section 5731.01(G), which defines the Ohio Estate Tax;
- (2) Section 5731.02(C), which causes the Ohio Estate Tax on residents of Ohio to expire on December 31, 2012 and not be replaced before or after December 31, 2012 by any other law that constitutes an Ohio Estate Tax;
- (3) and Section 5731.19(D), which causes the Ohio Estate Tax on non-residents to expire on December 31, 2012 and not be replaced before or after December 31, 2012 by any other law that constitutes an Ohio Estate Tax.

CERTIFICATION OF ATTORNEY GENERAL

(to be obtained after initial circulation)

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to this petition or its circulation:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NOTICE

Whoever knowingly signs this petition more than once; except as provided in section 3501.382 of the Revised Code, signs a name other than one's own on this petition; or signs this petition when not a qualified voter, is liable to prosecution.

Sign with ink. Your name, residence, and date of signing must be given.

	Signature	County	Township	Rural Route or other Post-Office Address	Month/Day/Year
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(Voters who do not live in a municipal corporation should fill in the information called for by headings printed above.)

(Voters who reside in municipal corporations should fill in the information called for by headings printed below.)

	Signature	County	City or Village	Street and Number	Ward Precinct	Month/Day/Year
1	Signature Print Name					
2	Signature Print Name					
3	Signature Print Name					
4	Signature Print Name					
5	Signature Print Name					
6	Signature Print Name					
7	Signature Print Name					
8	Signature Print Name					

FULL TEXT OF PROPOSED LAW

Be it enacted by the people of the state of Ohio:

That sections 5731.01, 5731.02, and 5731.19 of the Revised Code be amended to read as follows:

Sec. 5731.01. Definitions

As used in this chapter:

(A) The “value of the gross estate” of the decedent shall include, to the extent provided in sections 5731.03 to 5731.131 of the Revised Code, the value, on the date of the decedent's death or on an alternate valuation date prescribed by division (D) of this section, of all property, real or personal, tangible or intangible, wherever situated, except real property situated and tangible personal property having an actual situs outside of this state.

(B) Subject to the provisions of section 5731.011 of the Revised Code that permit a valuation of qualified farm property at its value for its actual qualified use, the value of any property included in the gross estate shall be the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. All relevant facts and elements of value as of the valuation date shall be considered in determining such value.

The rulings and regulations of the internal revenue service and decisions of the federal courts defining the principles applicable in determining fair market value for purposes of the federal estate tax imposed by Subchapter A, Chapter 11 of the Internal Revenue Code shall be applied in determining fair market value for purposes of the estate taxes imposed by this chapter, to the extent that these rulings, regulations, and decisions are not inconsistent with the express provisions of this chapter, but the actual determination of the fair market value by the internal revenue service of any asset included in the gross estate is not controlling for purposes of the estate taxes imposed by this chapter, unless the person filing the estate tax return and the tax commissioner have agreed in writing to be bound by the federal determination, as provided in section 5731.26 of the Revised Code.

(C) In the case of stock and securities of a corporation the value of which, by reason of their not being listed on an exchange and by reason of the absence of sales of them, cannot be determined with reference to bid and asked prices, or with reference to sales prices, the value of them shall be determined by taking into consideration, in addition to all other factors, the value of stock or securities of corporations engaged in the same or a similar line of business which are listed on an exchange or which are traded actively in the over-the-counter market.

If a valuation of securities is undertaken by reference to market transactions and if the block of securities to be valued is so large in relation to actual sales on existing markets that it could not be liquidated in a reasonable time without depressing the market, the price at which the block could be sold, as such, outside the usual market, as through an underwriter, shall be considered in determining the value of such block of securities.

(D) “Alternate valuation date” means the date for valuation of a gross estate permitted by filing an

election under this division. Whether or not an alternate valuation date election is available to an estate for federal estate tax purposes or, if available, is made for the estate, the value of the gross estate may be determined, if the person required to file the estate tax return so elects, by valuing all the property included in the gross estate on the alternate date, if any, provided in section 2032 (a) of the Internal Revenue Code as such section generally applies, for federal estate tax purposes, to the estates of persons dying on the decedent's date of death.

No deduction under this chapter of any item shall be allowed if allowance is, in effect, given by use of the alternate valuation date. In the determination of any tax liability of any estate in which an election is filed under this division, all provisions in this chapter that refer to value at the time of the decedent's death shall be construed for all purposes to mean the value of such property used in determining the value of the gross estate. For the purposes of the charitable deduction under section 5731.17 of the Revised Code, any bequest, legacy, devise, or transfer enumerated in it shall be valued as of the date of the decedent's death with adjustment for any difference in value, not due to mere lapse of time or the occurrence or nonoccurrence of a contingency, of the property as of the date six months after the decedent's death, or in case of its earlier disposition, on such date of disposition.

An election under this division shall be exercised on the estate tax return by the person required to file the return. When made, an election under this division is irrevocable. An election cannot be exercised under this division if a return is filed more than one year after the time prescribed, including any extensions of time granted, pursuant to law for filing the return.

(E) Unless otherwise indicated by the context, "county" means one of the following:

- (1) The county in which the decedent's estate is administered;
- (2) If no administration of the decedent's estate is being had, the county of residence of the decedent at the time of death;
- (3) If the decedent dies a resident of another state, any county in which any property subject to tax is located.

(F) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

(G) "Estate Tax" means a monetary charge imposed by the government of the state of Ohio on the transfer, occurring at the same time as and as a result of the death of an individual, of any property, real or personal, tangible or intangible, wherever situated, owned by a decedent on the date of the decedent's death.

* * *

Sec. 5731.02. Estate Taxes; rates

(A) A tax is hereby levied on the transfer of the taxable estate, determined as provided in section 5731.14 of the Revised Code, of every person dying on or after July 1, 1968, who at the time of death was a resident of this state, as follows:

If the taxable estate is:	The tax shall be:
Not over \$40,000	2% of the taxable estate
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.

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

(C) This section shall expire on December 31, 2012 and shall not be replaced, before or after that date, with any other law that constitutes an Estate Tax, as defined in Section 5371.01(G).

* * *

Sec. 5731.19. Nonresident estate tax

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

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

- (1) Determine the amount of tax which would be payable under Chapter 5731. of the Revised Code if the decedent had died a resident of this state with all his property situated or located within this state;
- (2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible personal property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product shall be the amount of tax payable to this state.

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

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

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

(D) This section shall expire on December 31, 2012 and shall not be replaced, before or after that date, with any other law that constitutes an Estate Tax, as defined in Section 5371.01(G).

* * *

STATEMENT OF CIRCULATOR

I, _____, declare under penalty of election falsification that I am the circulator of the foregoing petition paper containing the signatures of electors, that the signatures appended hereto were made and appended in my presence on the date set opposite each respective name, and are the signatures of the persons whose names they purport to be or of attorneys in fact acting pursuant to section 3501.382 of the Revised Code, and that the electors signing this petition did so with knowledge of the contents of same. I am employed to circulate this petition by _____ (Name and address of employer). (The preceding sentence shall be completed as required by section 3501.38 of the Revised Code *if the circulator is being employed to circulate the petition.*)

(Signed) _____

(Address of circulator's permanent residence in this state) _____

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.