



Ohio Revised Code Section 5731.15 General deductions.

Effective: July 1, 1993

Legislation: Senate Bill 336 - 118th General Assembly

For purposes of the tax levied by section 5731.02 of the Revised Code, the value of the taxable estate shall be determined by deducting from the value of the gross estate:

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

- (1) The interest was bequeathed or devised to the surviving spouse in the will of the decedent;
- (2) The interest was inherited by the surviving spouse through intestate succession from the decedent;
- (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;
- (4) The decedent transferred the interest to the surviving spouse at any time;
- (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;
- (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.



(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.

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

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

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

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

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

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

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

(C) The pay and allowances determined by the United States to be due to a member of the armed



AUTHENTICATED,
OHIO LEGISLATIVE SERVICE
COMMISSION
DOCUMENT #250066

forces for active duty in Vietnam service for the period between the date declared by the United States as the beginning of his missing in action status to the date of his death as determined by the United States. As used in this division, "Vietnam service" means military service within the Republic of Vietnam during the period between February 28, 1961, to July 1, 1973, or military service in southeast Asia for which hostile fire pay was awarded pursuant to 37 U.S.C. 310, during the period February 28, 1961, to July 1, 1973.