



Ohio Revised Code

Section 5731.37 Taxes are lien on property.

Effective: November 8, 1990

Legislation: House Bill 286 - 118th General Assembly

(A) Taxes levied by this chapter shall be, until restricted, transferred, or discharged pursuant to this division, until paid, or unless division (A)(5)(b) of section 5731.21 of the Revised Code applies to them, a lien upon all property subject to the taxes. This lien:

- (1) Is discharged, as to property applied to costs and expenses of administration, property constituting the allowance made to the surviving spouse, minor children, or surviving spouse and minor children of the decedent under section 2106.13 of the Revised Code for their support, and all of the property of a decedent that is subject to inclusion in the gross estate and that has been disclosed to the tax commissioner by the time a certificate of discharge is issued;
- (2) Is transferred, to the extent of any such property sold by the executor, administrator, or trustee for the purpose of paying debts, administration expenses, or taxes of the estate, or for any purpose to a bona fide purchaser for an adequate and full consideration in money or money's worth, to the money or other property received from the purchaser. Knowledge that the property is being sold by a fiduciary and that it otherwise would be subject to the estate tax lien does not preclude the purchaser from being classified as a bona fide purchaser.
- (3) May be, by written authorization of the tax commissioner, restricted to all property that is subject to such taxes, and not specifically released, transferred to other property on conditions acceptable to the tax commissioner, or fully discharged, each upon conditions, including payment of a reasonable fee, prescribed by rules adopted under section 5703.14 of the Revised Code, when he determines that any of these actions will not jeopardize the collection of the taxes;
- (4) Shall be restricted, transferred, or discharged, as authorized in division (A)(3) of this section, by the tax commissioner, upon order of the probate court after notice to the commissioner and any other person whose substantial rights may reasonably be affected by the lien and hearing on an application of the executor, administrator, trustee, or the owner of an interest in any property subject, or reasonably the object of a claim to be subject, to the lien, and proof that the collection of the taxes



will not be jeopardized by the action, and that the tax commissioner failed to grant a reasonable request for the action within sixty days of his receipt of a written request.

(B) The executor, administrator, trustee, or other person in possession of property, the transfer of which is subject to the taxes, or any transferee of the property, except a bona fide purchaser for an adequate and full consideration in money or money's worth, is personally liable for all the taxes to the extent that their collection is reduced by his omission to perform a statutory duty, with interest as provided in section 5731.23 of the Revised Code, until they have been paid. An administrator, executor, or trustee of any property, the transfer of which is subject to the taxes shall deduct the taxes from the property, or collect them from any person entitled to the property. He shall not deliver or be compelled to deliver any property, the transfer of which is subject to the taxes, to any person, until the taxes on it have been collected, and on any other property of the same decedent that has been, or is to be, transferred to the person or his spouse or minor child. He may sell so much of the estate of the decedent as will enable him to pay the taxes in the same manner as for the payment of the debts of the decedent. Knowledge that the property is being sold by a fiduciary and that it otherwise would be subject to the estate tax lien does not preclude the purchaser from being classified as a bona fide purchaser.

(C) If an election is made, pursuant to division (B)(1)(b) or (c) of section 5731.011 of the Revised Code to have qualified farm property valued at its value for actual qualified use, an amount equivalent to the estate tax savings realized in the decedent's estate by valuating the property at its value for its actual qualified use, instead of at its fair market value pursuant to division (B) of section 5731.01 of the Revised Code, shall be a lien in favor of this state on the property for four years after the decedent's death, unless it is earlier discharged. The tax commissioner may issue a certificate of subordination of any lien imposed by this division upon any part of the property subject to the lien, if the tax commissioner determines that the state will be adequately secured after the subordination.