

From the Business First:

<http://www.bizjournals.com/columbus/print-edition/2012/03/16/estate-planning-guide-as-ohios.html>

Estate Planning Guide: As Ohio's estate tax ends, planners flummoxed by federal uncertainty

Premium content from Business First by Martha Leonard | For Business First

Date: Friday, March 16, 2012, 6:00am EDT

Related:

[Banking & Financial Services](#)

[Benjamin Franklin](#) once wrote that nothing is certain except death and taxes. For some people, these two events converge in the form of the estate tax.

That's bad news for the heirs of many estates, but the good news for them is that after Jan. 1, 2013, Ohio's estate tax will disappear.

Ohio Gov. [John Kasich](#) signed a bill in June that repeals the tax, though the federal tax remains.

The Ohio tax still is in effect for those who die this year and have an estate valued at more than \$338,333.

Ohio legislators who voted for repeal said the estate tax was burdensome for businesses because it drove capital, retirees and jobs out of the state. Its repeal is hoped to benefit the state by creating a more favorable tax climate. Groups that supported the repeal included the Ohio Farm Bureau, the **Ohio Cattlemen's Association** and the Ohio Manufacturer's Association.

"The repeal of the tax will send one of the first important signals that the Tea Party movement and grassroots citizens will influence government and limit the growth of government in Ohio," said a letter published on the endohioestatetax.com website thanking Ohio Gov. [John Kasich](#) and others who supported the repeal.

Those opposed argued that repealing the tax would benefit the wealthy and hurt local governments that rely on taxes generated by wealthy residents' deaths. In May, as the Ohio House considered the repeal, Columbus Mayor [Mike Coleman](#) and other local government officials protested the repeal.

Not so onerous

Ohio is among 22 states and the District of Columbia that currently have estate or inheritance taxes, separate from federal estate tax.

The other states with estate taxes typically exempt \$1 million or more and charge a top rate of 16 percent for estates over that amount. Six states levy just an inheritance tax, with the rate depending on the relationship of the heir to the deceased.

The tax often can impact businesses, especially small ones, because heirs may not be able to afford to pay it after the business founder passes away. That could result in a business being shuttered or sold to a larger, out-of-state corporation.

The exemption amount on Ohio's estate tax is the lowest compared with other states – \$338,333 per estate – and the 7 percent rate that's charged over that amount also is the lowest rate of any state.

Some estate planners say the low tax rate makes it more of an annoyance than a hardship to business owners.

"It was a bit onerous, but I don't think its repeal is enough to bring businesses or keep businesses here," said [Tom Sigmund](#), a business law attorney with **Kegler Brown Hill & Ritter Co. LPA** in Columbus whose practice includes estate planning and probate. "Seven cents on the dollar is not going to make or break a business."

The bigger issue for business, in addition to the federal estate tax, is Ohio's income tax, he said. "People and businesses are gravitating to Florida because of income tax, not Ohio's estate tax."

Impact on planning

The repeal of Ohio's estate tax hasn't yet had a big impact on the way planners are advising their clients. That's mostly because anyone who dies this year still is subject to the tax if the estate is large enough.

It's also because the federal estate tax traditionally has taken a bigger bite out of estates.

"So far, the only change I'm making is to let clients know it's coming," said [Ned Segelken](#), a partner with **Porter Wright Morris & Arthur LLP** in Columbus, whose practice includes estate and gift planning and administration. "The state tax is small enough – the much bigger issue is the federal estate tax, which is scheduled to revert to an exemption of \$1 million with a much higher tax rate beginning in 2013."

This year, estates valued at or below \$5.12 million aren't subject to federal estate tax. Federal estate tax rates will increase in 2013 unless the law is repealed.

For 2012, the maximum estate tax rate is 35 percent. Next year that will soar to 55 percent for taxable estates greater than \$3 million.

Estate planners have several options under the law to save their clients money in estate taxes, such as setting up trusts, gifting and life insurance policies.

"Right now, it's OK to gift the estate in order to avoid paying estate tax," said [Bea Wolper](#), president of Emens & Wolper law firm in Columbus, whose practice focuses on family business estate and succession planning. "But people don't like to do this because it means giving up control while they're still alive. But we have a very small window of time to take advantage of it. The gift tax is supposed to change next year."

The amount a person can give away for free is just over \$5 million this year and the rate for gifts over that amount is 35 percent.

But in 2013, the exemption falls to \$1 million and the tax rate jumps to 55 percent.

Planners say not knowing what changes will take place to the federal laws hampers their ability to help clients map out their estate plans.

"The law has been in a state of flux since 2001. How do you advise clients when they don't know what the law will be from one year to the next?" Segelken said. "Clients want to do long-range planning, but it's just not possible."

Planners also suspect that Ohio's estate tax law will change along with the federal estate law, once Congress establishes what that will be.

"I think the state's estate tax will follow whatever the feds decide to do in the future," Wolper said. "Some people are saying even the federal estate tax will be eliminated. I don't have a crystal ball, but I don't think that will happen because it generates too much money."

Segelken agreed: "I'm not 100 percent convinced that we won't have an estate tax in Ohio. Based on history, these things are sometimes reversed."

Martha Leonard is a freelance writer.