



## Ohio Revised Code

### Section 5731.011 Value of qualified farm property.

Effective: July 24, 1986

Legislation: House Bill 139 - 116th General Assembly

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(A) As used in this section:

(1) "Adjusted value" means:

(a) In the case of the gross estate, the value of the gross estate as determined pursuant to section 5731.01 of the Revised Code and without regard to this section, reduced by any amounts allowable as a deduction under division (A)(4) of section 5731.16 of the Revised Code;

(b) In the case of any real or personal property, the value of the property as determined pursuant to section 5731.01 of the Revised Code and without regard to this section, reduced by any amounts allowable as a deduction in respect to such property under division (A)(4) of section 5731.16 of the Revised Code.

(2) "Member of the decedent's family" means, with respect to any decedent, only his ancestor or lineal descendant, a lineal descendant of any of his grandparents, his spouse, the spouse of any such descendant, or a step child or foster child of the decedent.

(3) "Qualified farm property" means real property that is located in this state, that is included in the gross estate of the decedent under this chapter, and that was acquired by, or passed to, a qualified heir, but only if both of the following apply:

(a) Fifty per cent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which, on the date of the decedent's death, was being used for a qualified use;

(b) Twenty-five per cent or more of the adjusted value of the gross estate consists of the adjusted value of real property which, on the date of the decedent's death, was being used for a qualified use.



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(4) "Qualified heir" means a member of the decedent's family who acquired qualified farm property, or to whom such property passed. If a qualified heir disposes of any interest in qualified farm property to any member of the decedent's family, that member shall thereafter be treated as the qualified heir with respect to the interest.

(5) "Qualified use" means the devotion of real property exclusively to agricultural use as described in the definition of "land devoted exclusively to agricultural use" contained in division (A) of section 5713.30 of the Revised Code, whether or not an application has been filed by the decedent or a qualified heir pursuant to section 5713.31 of the Revised Code.

(B)(1) For purposes of determining the value of property included in the gross estate, the value of qualified farm property is, subject to division (D) of this section, whichever of the following the person filing the estate tax return elects:

(a) Its fair market value, as determined pursuant to division (B) of section 5731.01 of the Revised Code;

(b) Its value for its actual qualified use, on the date of the decedent's death or on an alternate valuation date prescribed by division (D) of section 5731.01 of the Revised Code;

(c) Its value for its actual qualified use, as determined under section 5713.31 of the Revised Code.

(2) The election shall be made on or before the date by which the return is required to be filed, determined with regard to any extension of time granted pursuant to law for filing the return.

(C)(1) For purposes of this section, the existence of a qualified use may be established, but is not required to be established, by the filing of an application pursuant to section 5713.31 of the Revised Code and its approval by the county auditor.

(2) This section applies to any interest in qualified farm property that is held in a partnership, corporation, or trust, if the interest would qualify under this section if it were held directly by the decedent.



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(D) If the person filing the estate tax return elects pursuant to division (B)(1)(b) or (c) of this section, to have qualified farm property valued at its value for its actual qualified use, and if the difference between the fair market value of the property as determined pursuant to division (B) of section 5731.01 of the Revised Code and the value for its actual qualified use under division (B)(1)(b) or (c) of this section, whichever was elected, exceeds five hundred thousand dollars, the property shall be valued at the amount that is five hundred thousand dollars less than the fair market value.

(E) If an election is made, pursuant to division (B)(1)(b) or (c) of this section, to have qualified farm property valued at its value for its actual qualified use, and if, within four years after the date of the decedent's death and before the death of the qualified heir, the qualified heir disposes of any interest in the property to a person other than a member of the decedent's family, or ceases to use any part of the property for a qualified use, a recapture tax shall be imposed. The recapture tax shall be equivalent to the estate tax savings realized in the decedent's estate by valuating the interest disposed of, or the part of the property that has ceased to be used for a qualified use, 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. The recapture tax, plus interest computed at the rate per annum determined under section 5703.47 of the Revised Code, from nine months after the date of the decedent's death, is due and payable on the day that is nine months after the date of the disposition or cessation of use, and shall be paid by the qualified heir who disposed of the interest or ceased use of the part of the property for a qualified use.

(F) The tax commissioner shall prescribe rules and forms to implement this section. The rules may require, for purposes of division (E) of this section, that a qualified heir file an annual report with the commissioner, establishing that the qualified farm property has not been disposed of to a person other than a member of the decedent's family and that no part of it has ceased to be used for a qualified use.