

How and Where to File

Complete and file ET Form 41 in duplicate with the
Estate Tax Division
Ohio Department of Taxation
800 Freeway Drive North
Columbus, OH 43229

General Instructions

- Who May File:** The personal representative who is required to file the estate tax return for the decedent's estate may file ET Form 41, extension of time to pay under Section 5731.25 O.R.C. Personal representative means the executor, executrix, administrator or administratrix of the decedent's estate. If no executor, executrix, administrator or administratrix is appointed, personal representative means any person in actual or constructive possession of any property of the decedent. Also, an authorized attorney, certified public accountant, trustee, or agent holding a power of attorney may file this form to apply for an extension of time on behalf of the personal representative. The form must be signed by the person filing the application. The person who files should insert their appropriate title in Part III.
- When to File:** ET Form 41 is required to be filed in adequate time to permit the Estate Tax Division to consider the application and reply before the estate tax return due date.
- Interest:** Interest from nine months from date of death must be paid on the part of the estate tax for which an extension of time to pay is approved.
- Note:** The part of the estate tax for which an extension is not granted is due nine months from date of death.

Specific Instructions

Extension of Time to Pay (Section 5731.25 O.R.C.) -- an extension of time to pay under Section 5731.25 O.R.C. may not exceed 12 months. A discretionary extension of time to pay for undue hardship may not exceed 14 years. Different extension periods may be applicable to extensions of time granted for a deficiency (a Section 5731.25(B) election, reversionary or remainder interest).

The application must establish why it is impossible or impractical for the personal representative to pay the full amount of the estate tax by the estate tax return due date. Examples of undue hardship include the following:

1. An estate includes sufficient liquid assets to pay the estate tax when otherwise due. The liquid assets, however, are located in several jurisdictions and are not immediately subject to the control of the personal representative. Consequently, such assets cannot readily be marshalled by the personal representative even with the exercise of due diligence.
2. An estate is comprised in substantial part of assets consisting of rights to receive payments in the future (i.e., annuities, copyright royalties, contingent fees, or accounts receivable.) These assets provide insufficient present cash with which to pay the estate tax when otherwise due and the estate cannot borrow against these assets except upon terms which would inflict loss upon the estate.
3. An estate includes a claim to substantial assets which cannot be collected without litigation. Consequently, the size of the gross estate is unascertainable at the time the tax is otherwise due.
4. An estate does not have sufficient funds (without borrowing at a rate of interest higher than that generally available) with which to pay the entire estate tax when otherwise due. To provide a reasonable

allowance during the remaining period of administration of the estate for the decedent's surviving spouse and dependent children, and to satisfy claims against the estate that are due and payable. Furthermore, the personal representative has made a reasonable effort to convert assets in the personal representative's possession into cash.

5. A significant portion of the gross estate consists of a farm or a closely-held business, and there are not readily available, sufficient funds in the gross estate to pay an estate tax imposed by this chapter and any federal estate tax. For purposes of this division, funds shall not be considered readily available because the farm or closely-held business could be sold to persons who are not related by consanguinity or affinity to the decedent, at a price that equals the fair market value of the farm or closely-held business.

6. Assets in the gross estate that would have to be liquidated to pay an estate tax imposed by this chapter when due, could only be sold at a price that is considered a sacrifice price or could only be sold in a depressed market.

In general, an extension of time to pay will be granted only for the amount of the cash shortage. The amount of the estate tax, the amount of the cash shortage, and the balance due must be shown in Part II.

The Department of Taxation will complete Part IV and return two copies to the applicant. Please attach one copy to the estate tax return which is filed. Submit a copy with any separate payment.

An approved extension of time to pay does not extend the time to file date. Use Form ET24 to obtain an extension of time to file the return.