

OTS 4.2

4.2 ENCUMBRANCES – ESTATE TAX

Problem A:

Is a decedent's real property divested of the lien of the state estate tax by a conveyance by an executor acting pursuant to a testamentary power of sale?

Standard A:

Yes, provided the conveyance is to a bona fide purchaser for an adequate consideration.

Comment A:

See Ohio Revised Code Section 5731.02 (A) as amended, the levy of an estate tax is limited to persons dying on or after July 1, 1968 and before January 1, 2013. Further, the lien is divested generally after ten years from the date of decedent's death. Ohio Revised Code Section 5731.38.

(Amended May 10, 2019; amended November 11, 1972 and at various times; originally effective May 21, 1953)

Problem B:

Should a title be considered unmarketable in the hands of a purchaser, encumbrancer or lessee for value, as disclosed by the record, whose grantor acquired title by gift, the donor of which gift survived the gift by more than three years?

Standard B:

No. *See Ohio Revised Code Section 5731.05 (C) (1).*

(Amended May 10, 2019; amended November 13, 1971; originally effective November 16, 1957)