State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 39

01/14/2019 Authored by Hertaus, Lucero and Robbins
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

relating to taxation; estate; conforming to the federal exclusion amount; amending Minnesota Statutes 2018, sections 289A.10, subdivision 1; 291.016, subdivision 3; 291.03, subdivision 1; repealing Minnesota Statutes 2018, sections 289A.10, subdivision 1a; 289A.12, subdivision 18; 289A.18, subdivision 3a; 289A.20, subdivision 3a; 291.03, subdivisions 8, 9, 10, 11.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 289A.10, subdivision 1, is amended to read:

Subdivision 1. **Return required.** In the case of a decedent who has an interest in property with a situs in Minnesota, the personal representative must submit a Minnesota estate tax return to the commissioner, on a form prescribed by the commissioner, if~~:~~

~~(1)~~ a federal estate tax return is required to be filed~~; or~~.

~~(2) the sum of the federal gross estate and federal adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue Code, made within three years of the date of the decedent's death exceeds $1,200,000 for estates of decedents dying in 2014; $1,400,000 for estates of decedents dying in 2015; $1,600,000 for estates of decedents dying in 2016; $2,100,000 for estates of decedents dying in 2017; $2,400,000 for estates of decedents dying in 2018; $2,700,000 for estates of decedents dying in 2019; and $3,000,000 for estates of decedents dying in 2020 and thereafter.~~

The return must contain a computation of the Minnesota estate tax due. The return must be signed by the personal representative.

EFFECTIVE DATE. This section is effective retroactively for estates of decedents dying after December 31, 2018.

Sec. 2. Minnesota Statutes 2018, section 291.016, subdivision 3, is amended to read:

Subd. 3. **Subtraction.** (a) For estates of decedents dying after December 31, ~~2016~~ 2018, a subtraction is allowed in computing the Minnesota taxable estate, equal to the ~~sum of:~~

~~(1) the exclusion amount for the year of death under paragraph (b); and~~

~~(2) the lesser of:~~

~~(i) the value of qualified small business property under section 291.03, subdivision 9, and the value of qualified farm property under section 291.03, subdivision 10; or~~

~~(ii) $5,000,000 minus the exclusion amount for the year of death under paragraph (b)~~ decedent's applicable federal exclusion amount under section 2010(c)(2) of the Internal Revenue Code.

~~(b) The following exclusion amounts apply for the year of death:~~

~~(1) $2,100,000 for decedents dying in 2017;~~

~~(2) $2,400,000 for decedents dying in 2018;~~

~~(3) $2,700,000 for decedents dying in 2019; and~~

~~(4) $3,000,000 for decedents dying in 2020 and thereafter.~~

~~(c)~~ (b) The subtraction under this subdivision must not reduce the Minnesota taxable estate to less than zero.

EFFECTIVE DATE. This section is effective retroactively for estates of decedents dying after December 31, 2018.

Sec. 3. Minnesota Statutes 2018, section 291.03, subdivision 1, is amended to read:

Subdivision 1. **Tax amount.** (a) The tax imposed must be computed by applying to the Minnesota taxable estate the ~~following~~ schedule of rates in paragraph (b), and then multiplying the resulting amount ~~multiplied~~ by a fraction, not greater than one, the numerator of which is the value of the Minnesota gross estate plus the value of gifts under section 291.016, subdivision 2, clause (3), with a Minnesota situs, and the denominator of which is the federal gross estate plus the value of gifts under section 291.016, subdivision 2, clause (3)~~:~~.

~~(a) For estates of decedents dying in 2017:~~

~~Amount of Minnesota Taxable Estate~~	~~Rate of Tax~~
~~Not over $5,100,000~~	~~12 percent~~

~~Over $5,100,000 but not over $7,100,000~~	~~$612,000 plus 12.8 percent of the excess over $5,100,000~~
~~Over $7,100,000 but not over $8,100,000~~	~~$868,000 plus 13.6 percent of the excess over $7,100,000~~
~~Over $8,100,000 but not over $9,100,000~~	~~$1,004,000 plus 14.4 percent of the excess over $8,100,000~~
~~Over $9,100,000 but not over $10,100,000~~	~~$1,148,000 plus 15.2 percent of the excess over $9,100,000~~
~~Over $10,100,000~~	~~$1,300,000 plus 16 percent of the excess over $10,100,000~~

(b) For estates of decedents dying in 2018 and thereafter~~:~~, 16 percent of the amount of the Minnesota taxable estate.

~~Amount of Minnesota Taxable Estate~~	~~Rate of Tax~~
~~Not over $7,100,000~~	~~13 percent~~
~~Over $7,100,000 but not over $8,100,000~~	~~$923,000 plus 13.6 percent of the excess over $7,100,000~~
~~Over $8,100,000 but not over $9,100,000~~	~~$1,059,000 plus 14.4 percent of the excess over $8,100,000~~
~~Over $9,100,000 but not over $10,100,000~~	~~$1,203,000 plus 15.2 percent of the excess over $9,100,000~~
~~Over $10,100,000~~	~~$1,355,000 plus 16 percent of the excess over $10,100,000~~

EFFECTIVE DATE. This section is effective retroactively for estates of decedents dying after December 31, 2018.

Sec. 4. **REPEALER.**

Minnesota Statutes 2018, sections 289A.10, subdivision 1a; 289A.12, subdivision 18; 289A.18, subdivision 3a; 289A.20, subdivision 3a; and 291.03, subdivisions 8, 9, 10, and 11, are repealed.

EFFECTIVE DATE. This section is effective retroactively for estates of decedents dying after December 31, 2018.

289A.10 FILING REQUIREMENTS FOR ESTATE TAX RETURNS.

Subd. 1a. **Recapture tax return required.** If a disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a), has occurred, the qualified heir, as defined under section 291.03, subdivision 8, paragraph (c), or personal representative of the decedent's estate must submit a recapture tax return to the commissioner.

289A.12 FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.

Subd. 18. **Returns by qualified heirs.** A qualified heir, as defined in section 291.03, subdivision 8, paragraph (c), must file two returns with the commissioner attesting that no disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a), occurred. The first return must be filed no earlier than 24 months and no later than 26 months after the decedent's death. The second return must be filed no earlier than 36 months and no later than 39 months after the decedent's death.

289A.18 DUE DATES FOR FILING OF RETURNS.

Subd. 3a. **Recapture tax return.** A recapture tax return must be filed with the commissioner within six months after the date of the disposition or cessation as provided by section 291.03, subdivision 11, paragraph (a).

289A.20 DUE DATES FOR MAKING PAYMENTS OF TAX.

Subd. 3a. **Recapture tax.** The additional estate tax imposed by section 291.03, subdivision 11, paragraph (b), is due and payable on or before the expiration of the date provided by section 291.03, subdivision 11, paragraph (c).

291.03 RATES.

Subd. 8. **Definitions.** (a) For purposes of this section, the following terms have the meanings given in this subdivision.

(b) "Family member" means a family member as defined in section 2032A(e)(2) of the Internal Revenue Code, or a trust whose present beneficiaries are all family members as defined in section 2032A(e)(2) of the Internal Revenue Code.

(c) "Qualified heir" means a family member who acquired qualified property upon the death of the decedent and satisfies the requirement under subdivision 9, clause (8), or subdivision 10, clause (5), for the property.

(d) "Qualified property" means qualified small business property under subdivision 9 and qualified farm property under subdivision 10.

Subd. 9. **Qualified small business property.** Property satisfying all of the following requirements is qualified small business property:

(1) The value of the property was included in the federal adjusted taxable estate.

(2) The property consists of the assets of a trade or business or shares of stock or other ownership interests in a corporation or other entity engaged in a trade or business. Shares of stock in a corporation or an ownership interest in another type of entity do not qualify under this subdivision if the shares or ownership interests are traded on a public stock exchange at any time during the three-year period ending on the decedent's date of death. For purposes of this subdivision, an ownership interest includes the interest the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code.

(3) During the taxable year that ended before the decedent's death, the trade or business must not have been a passive activity within the meaning of section 469(c) of the Internal Revenue Code, and the decedent or the decedent's spouse must have materially participated in the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Treasury Department regulation that substitutes material participation in prior taxable years for material participation in the taxable year that ended before the decedent's death.

(4) The gross annual sales of the trade or business were $10,000,000 or less for the last taxable year that ended before the date of the death of the decedent.

(5) The property does not include:

(i) cash;

(ii) cash equivalents;

(iii) publicly traded securities; or

(iv) any assets not used in the operation of the trade or business.

(6) For property consisting of shares of stock or other ownership interests in an entity, the value of items described in clause (5) must be excluded in the valuation of the decedent's interest in the entity.

(7) The decedent continuously owned the property, including property the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code, for the three-year period ending on the date of death of the decedent. In the case of a sole proprietor, if the property replaced similar property within the three-year period, the replacement property will be treated as having been owned for the three-year period ending on the date of death of the decedent.

(8) For three years following the date of death of the decedent, the trade or business is not a passive activity within the meaning of section 469(c) of the Internal Revenue Code, and a family member materially participates in the operation of the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Treasury Department regulation that substitutes material participation in prior taxable years for material participation in the three years following the date of death of the decedent.

(9) The estate and the qualified heir elect to treat the property as qualified small business property and agree, in the form prescribed by the commissioner, to pay the recapture tax under subdivision 11, if applicable.

Subd. 10. **Qualified farm property.** Property satisfying all of the following requirements is qualified farm property:

(1) The value of the property was included in the federal adjusted taxable estate.

(2) The property consists of agricultural land and is owned by a person or entity that is either not subject to or is in compliance with section 500.24.

(3) For property taxes payable in the taxable year of the decedent's death, the property is classified as class 2a property under section 273.13, subdivision 23, and is classified as agricultural homestead, agricultural relative homestead, or special agricultural homestead under section 273.124.

(4) The decedent continuously owned the property, including property the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code, for the three-year period ending on the date of death of the decedent either by ownership of the agricultural land or pursuant to holding an interest in an entity that is not subject to or is in compliance with section 500.24.

(5) The property is classified for property tax purposes as class 2a property under section 273.13, subdivision 23, for three years following the date of death of the decedent.

(6) The estate and the qualified heir elect to treat the property as qualified farm property and agree, in a form prescribed by the commissioner, to pay the recapture tax under subdivision 11, if applicable.

Subd. 11. **Recapture tax.** (a) If, within three years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of any interest in the qualified property, other than by a disposition to a family member, or a family member ceases to satisfy the requirement under subdivision 9, clause (8); or 10, clause (5), an additional estate tax is imposed on the property. In the case of a sole proprietor, if the qualified heir replaces qualified small business property excluded under subdivision 9 with similar property, then the qualified heir will not be treated as having disposed of an interest in the qualified property.

(b) The amount of the additional tax equals the amount of the exclusion claimed by the estate under subdivision 8, paragraph (d), multiplied by 16 percent.

(c) The additional tax under this subdivision is due on the day which is six months after the date of the disposition or cessation in paragraph (a).

(d) The tax under this subdivision does not apply to the acquisition of title or possession of the qualified property by a federal, state, or local government unit, or any other entity with the power of eminent domain for a public purpose, as defined in section 117.025, subdivision 11, within the three-year holding period.

(e) This subdivision shall not apply as a result of any of the following:

(1) a portion of qualified farm property consisting of less than one-fifth of the acreage of the property is reclassified as class 2b property under section 273.13, subdivision 23, and the qualified heir has not substantially altered the reclassified property during the three-year holding period; or

(2) a portion of qualified farm property classified as class 2a property at the death of the decedent pursuant to section 273.13, subdivision 23, paragraph (a), consisting of a residence, garage, and immediately surrounding one acre of land is reclassified as class 4bb property during the three-year holding period, and the qualified heir has not substantially altered the property.