

CHAPTER 850—H. F. No. 894

An act relating to inheritance and gift taxes; amending Minnesota Statutes 1965, Sections 291.01, Subdivision 4, 291.14, 508.71 and 600.21.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1965, Section 291.01, Subdivision 4, is amended to read:

Subd. 4. **Inheritance and gift taxes; jointly owned property.**

(1) Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositories in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be expected only such part as is proportionate to the consideration furnished by the survivor or survivors. Provided, where any property has been acquired prior to April 29, 1935, by the decedent and spouse, as joint tenants, not in excess of one-half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

(2) Every tax imposed upon property taxable under subdivision 4 shall be a lien upon the interest of the deceased joint tenant until paid; and the survivor or survivors shall be personally liable for such tax to the extent of the value of such property. Such lien shall be limited to a period of ten years from the date of recording a copy of the death record of the deceased joint tenants.

(3) When the tax is paid or if there is no tax, or if a bond is filed to insure the payment of any tax, penalty and interest that may be due, in an amount and in the form to be prescribed by the commissioner, or if there is deposited with the commissioner, cash, security or other property in an amount equal to 150 percent of the amount of tax which, in the judgment of the commissioner, would be due upon the transfer of such property, or if, in the judgment

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of the commissioner, there are sufficient assets in the estate to insure the payment of any tax, penalty and interest that may be due on such property, the commissioner shall make and deliver to the surviving joint tenant, his certificate to that effect, and the said certificate may be recorded as other instruments affecting the title to real estate.

(4)—(a)—Where the homestead is held in the names of decedent and spouse as joint tenants with the right of survivorship, an affidavit, in the form and manner prescribed by the commissioner, may be delivered to the Register of Deeds or the Registrar of Titles. Such affidavit shall declare

(i)—That the surviving joint tenant was the spouse of the decedent at date of death;

(ii)—that the property described as the homestead was owned and occupied by the decedent as his principal dwelling place at date of death;

(iii)—that the quantity of land included in such property is not in excess of the maximum amount allowed for purposes of the homestead exemption by Minnesota Statutes, Section 510.02;

(iv)—that the gross market value of such property at date of death was not in excess of \$30,000.

(v)—the affidavit to be delivered to the Register of Deeds or Registrar of Titles shall have attached thereto a certified copy of the death certificate with respect to the death of the deceased joint tenant.

The affidavit shall be in lieu of an affidavit of survivorship certified by the commissioner and shall extinguish the lien imposed on such property by clause (2) of this subdivision, and shall be recorded or filed as a document affecting the title to the real estate. The Register of Deeds or Registrar of Titles shall not be required to verify the declarations made in such affidavit.

(b)—A copy of the affidavit (which need not bear a copy of the death certificate) shall be supplied to the Register of Deeds or Registrar of Titles; he will forward this copy to the commissioner at his office in St. Paul, Minnesota.

(c)—Where it appears that a schedule of non-probate assets would otherwise not be required to be filed; the property, the lien on which has been extinguished in accordance with the provisions of paragraph (a) above; need not be reported on a schedule of non-probate assets.

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Sec. 2. Minnesota Statutes 1965, Section 291.14, is amended to read:

291.14. **Inheritance tax a lien upon property.** *Subdivision 1.* Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid, and the person to whom such property is transferred shall be personally liable for such tax, until its payment, to the extent of the value of such property. No such lien shall be enforced against real property, *in any case included in the probate estate*, unless the state shall assert the same by filing a statement of its lien in the office of the register of deeds in the county wherein such real estate may be situated, within ten years after the date of any final decree of distribution which may be entered in the estate involved.

Subd. 2. (1) Except as provided in clause (4) of this subdivision, where a lien for inheritance tax imposed under this chapter may be enforced against real property transferred to surviving joint tenants, or upon property transferred by a decedent during such decedent's lifetime, the surviving joint tenants or the transferees of the property so transferred by the decedent shall file on a form prescribed by the commissioner a schedule of non-probate assets listing the property or interest taxable. Any tax due on the transfer of such property or interest to the surviving joint tenants or to the transferees of the property so transferred by the decedent shall be reported on an inheritance tax return filed with the commissioner pursuant to Minnesota Statutes 1965, Section 291.09, and shall be a lien upon the interest of the surviving joint tenants or the transferees, until paid, and the surviving joint tenants or the transferees shall be personally liable for such tax to the extent of the value of such property.

(2) No lien shall be enforced against real property subject to the provision of clause (1) of this subdivision unless the state shall assert the same by filing a statement of such lien in the office of the register of deeds or registrar of titles in the county wherein such real estate may be situated within ten years from the date of recording a copy of the death record of the deceased joint tenant or deceased transferor, together with a copy of the schedule of non-probate assets required to be filed with the commissioner pursuant to clause (1) of this subdivision, which copy shall have been duly acknowledged by the commissioner.

(3) Where the tax on property subject to the provisions of clause (1) of this subdivision has been paid, or if there is deposited with the commissioner cash in an amount equal to the tax which, in the judgment of the commissioner, may be due upon the transfer

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of such property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit of survivorship-remainderman, described by the commissioner, that the lien has been satisfied or waived as the case may be. The affidavit so certified may be recorded as are other instruments affecting the title to real estate.

(4) (a) *Where the homestead is held in the names of decedent and spouse as joint tenants with the right of survivorship, an affidavit, in the form and manner prescribed by the commissioner, may be delivered to the Register of Deeds or the Registrar of Titles. Such affidavit shall declare*

(i) *That the surviving joint tenant was the spouse of the decedent at date of death,*

(ii) *that the property described as the homestead was owned and occupied by the decedent as his principal dwelling place at date of death,*

(iii) *that the quantity of land included in such property is not in excess of the maximum amount allowed for purposes of the homestead exemption by Minnesota Statutes, Section 510.02,*

(iv) *that the gross market value of such property at the date of death was not in excess of \$30,000,*

(v) *the affidavit to be delivered to the Register of Deeds or Registrar of Titles shall have attached thereto a certified copy of the death certificate with respect to the death of the deceased joint tenant.*

The affidavit shall be in lieu of an affidavit of survivorship certified by the commissioner and shall extinguish the lien imposed on such property by clause (2) of this subdivision, and shall be recorded or filed as a document affecting the title to the real estate. The Register of Deeds or Registrar of Titles shall not be required to verify the declarations made in such affidavit.

(b) *A copy of the affidavit (which need not bear a copy of the death certificate) shall be supplied to the Register of Deeds or Registrar of Titles; he will forward this copy to the commissioner at his office in St. Paul, Minnesota.*

(c) *Where it appears that a schedule of non-probate assets would otherwise not be required to be filed, the property, the lien on which has been extinguished in accordance with the provisions of paragraph (a) above, need not be reported on a schedule of non-probate assets.*

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Sec. 3. Minnesota Statutes 1965, Section 508.71, is amended to read:

508.71 Alterations on register; order of court. No erasure, alteration, or amendment shall be made upon the register of titles after the entry of a certificate of title or of any memorial thereon, and the attestation of the same by the registrar, except by order of the court. A registered owner or other person in interest may, at any time, apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error or omission was made in entering a certificate or any memorial thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancelation of a memorial upon a certificate, or grant any other relief upon such terms, requiring security if necessary, as it may consider proper; but the provisions of this section shall not give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser who holds a certificate for value and in good faith, or of his heirs or assigns *without his or their written consent*. *Without order of court* in counties in which a rule of the district court so provides, the registrar of titles may receive and register as memorials upon any certificate of title to which they pertain, the following instruments; receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a certificate of title, a marriage certificate showing the subsequent marriage of any owner shown by a certificate of title to be unmarried, a certified copy of the death certificate of party listed in any certificate of title as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with said spouse; and in all subsequent dealings with the land covered by such certificates the registrar shall give full faith to these memorials. In case of a certificate of title outstanding to two or more owners as joint tenants, upon the filing for registration of such a certificate of death and affidavit of identity, as hereinbefore described, *together with an affidavit of survivorship-remainderman duly certified by the commissioner of taxation*, and upon the surrender of the own-

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er's duplicate of title, the registrar shall issue a new certificate of title for the premises to the survivor in severalty or to the survivors in joint tenancy as the case may be. When instruments affecting registered land have been recorded in the office of any register of deeds in this state, a certified copy thereof may be filed for registration and registered with like effect as the original instrument, if the registrar of titles shall first be satisfied that the signatures to the original are genuine.

Sec. 4. Minnesota Statutes 1965, Section 600.21, is amended to read:

600.21 Copies of record of death; recordation in office of register of deeds. In all cases of joint tenancy in lands, and in all cases where any estate, title interest in, or lien upon, lands, has been or may be created, which estate, title interest, or lien was, or is, to continue only during the life of any person named or described in the instrument by which such estate, title, interest, or lien was created, a copy of the record of the death of any such joint tenant, or of the person upon whose life such estate, title, interest, or lien was, or is, limited, duly certified by any officer who is required by the law of the state or country in which such record is made, to keep a record of the death of persons occurring within the jurisdiction of such officer, may be recorded in the office of the register of deeds of the county in which such lands are situated, and such certified copy or such record thereof in such office, or a duly certified copy of such last mentioned record, shall be prima facie evidence of the death of such person and the termination of such joint tenancy and of all such estate, title, interest, and lien as was, or is, limited upon the life of such person. When a certified copy of such death certificate is attached to an affidavit of survivorship-*remainderman duly certified by the commissioner of taxation, or other instrument describing decedent's interest in such estate, title, interest, or lien*, the same shall, prior to recordation in the office of the register of deeds or registrar of titles, be presented to the county auditor of the county wherein such estate, title, interest, or lien is situated and such county auditor shall note the transfer on his books and shall inscribe upon the instrument over his official signature the words "Transfer entered." Until so presented and indication made thereon, said instrument shall not be entitled to record in the office of the register of deeds or registrar of titles of said county.

Approved May 24, 1967.

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