

**291.03 RATES.**

Subdivision 1. **Tax amount.** (a) The tax imposed shall be an amount equal to the proportion of the maximum credit for state death taxes computed under section 2011 of the Internal Revenue Code, but using Minnesota adjusted taxable estate instead of federal adjusted taxable estate, as the Minnesota gross estate bears to the value of the federal gross estate.

(b) The tax determined under this subdivision must not be greater than the sum of the following amounts multiplied by a fraction, the numerator of which is the Minnesota gross estate and the denominator of which is the federal gross estate:

(1) the rates and brackets under section 2001(c) of the Internal Revenue Code multiplied by the sum of:

- (i) the taxable estate, as defined under section 2051 of the Internal Revenue Code; plus
- (ii) adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue Code; less
- (iii) the lesser of (A) the sum of the value of qualified small business property under subdivision 9, and the value of qualified farm property under subdivision 10, or (B) \$4,000,000; less

(2) the amount of tax allowed under section 2001(b)(2) of the Internal Revenue Code; and less

(3) the federal credit allowed under section 2010 of the Internal Revenue Code.

(c) For purposes of this subdivision, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2000.

Subd. 1a. **Expenses disallowed.** For the purposes of this section, expenses which are deducted for federal income tax purposes under section 642(g) of the Internal Revenue Code are not allowable in computing the tax under this chapter.

Subd. 1b. **Qualified terminable interest property.** For estates of decedents dying after December 31, 2009, and before January 1, 2011, if a federal election under section 301(c) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312, is made, the executor may make a qualified terminable interest property election, as defined in section 2056(b)(7) of the Internal Revenue Code, for purposes of computing the tax under this chapter. The election may not reduce the taxable estate under this chapter below \$3,500,000. The election must be made on the tax return under this chapter and is irrevocable. All tax under this chapter must be determined using the qualified terminable interest property election made on the Minnesota return. For purposes of applying sections 2044 and 2207A of the Internal Revenue Code when computing the tax under this chapter for the estate of the decedent's surviving spouse, regardless of the date of death of the surviving spouse, amounts for which a qualified terminable interest property election has been made under this section must be treated as though a valid federal qualified terminable interest property election under section 2056(b)(7) of the Internal Revenue Code has been made.

Subd. 2. [Repealed, 2002 c 377 art 12 s 18]

Subd. 3. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 4. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 5. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 6. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 7. [Repealed, 1Sp1985 c 14 art 13 s 14]

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.

(c) "Qualified heir" means a family member who acquired qualified property from the decedent and satisfies the requirement under subdivision 9, clause (6), or subdivision 10, clause (4), 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. The decedent or the decedent's spouse must have materially participated in the trade or business within the meaning of section 469 of the Internal Revenue Code during the taxable year that ended before the date of the decedent's death. 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.

(3) 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.

(4) The property does not consist of cash or cash equivalents. For property consisting of shares of stock or other ownership interests in an entity, the amount of cash or cash equivalents held by the corporation or other entity must be deducted from the value of the property qualifying under this subdivision in proportion to the decedent's share of ownership of the entity on the date of death.

(5) The decedent continuously owned the property for the three-year period ending on the date of death of the decedent.

(6) A family member continuously uses the property in the operation of the trade or business for three years following the date of death of the decedent.

(7) 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 a farm meeting the requirements of section 500.24, and was classified for property tax purposes as the homestead of the decedent or the decedent's spouse or both under section 273.124, and as class 2a property under section 273.13, subdivision 23.

(3) The decedent continuously owned the property for the three-year period ending on the date of death of the decedent.

(4) A family member continuously uses the property in the operation of the trade or business for three years following the date of death of the decedent.

(5) 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 use the qualified property which was acquired or passed from the decedent, an additional estate tax is imposed on the 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).

**History:** (2293) 1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2a; 1927 c 205 s 1,2; 1939 c 338 s 2a; 1943 c 504 s 3; Ex1959 c 70 art 4 s 1; 1963 c 107 s 1; 1973 c 185 s 2; 1976 c 320 s 1; 1979 c 303 art 3 s 4; 1980 c 439 s 7; 1981 c 49 s 3; 3Sp1981 c 2 art 6 s 3; 1982 c 523 art 26 s 3; 1983 c 222 s 23; 1Sp1985 c 14 art 13 s 3; 2002 c 377 art 12 s 12; 2002 c 400 s 11; 2003 c 127 art 3 s 17; 2005 c 151 art 6 s 20; 2008 c 366 art 4 s 15,16; 2010 c 334 s 3; 2011 c 112 art 2 s 4; 1Sp2011 c 7 art 1 s 4-8