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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2554

03/18/2019 Authored by Gomez The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; estate and gift taxes; imposing a gift tax; making technical
1.3 and conforming changes; amending Minnesota Statutes 2018, sections 270B.01,
1.4 subdivision 8; 270B.03, subdivision 1; 291.03, subdivision 1; proposing coding
1.5 for new law in Minnesota Statutes, chapter 292.

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

1.7 Section 1. Minnesota Statutes 2018, section 270B.01, subdivision 8, is amended to read:

1.8 Subd. 8. Minnesota tax laws. For purposes of this chapter only, unless expressly stated
1.9 otherwise, "Minnesota tax laws" means:

1.10 (1) the taxes, refunds, and fees administered by or paid to the commissioner under
1.11 chapters 115B, 289A (except taxes imposed under sections 298.01, 298.015, and 298.24),
1.12 290, 290A, 291, 292, 295, 297A, 297B, 297H, and 403, or any similar Indian tribal tax
1.13 administered by the commissioner pursuant to any tax agreement between the state and the
1.14 Indian tribal government, and includes any laws for the assessment, collection, and
1.15 enforcement of those taxes, refunds, and fees; and

1.16 (2) section 273.1315.

1.17 EFFECTIVE DATE. This section is effective for gifts made after December 31, 2018.

1.18 Sec. 2. Minnesota Statutes 2018, section 270B.03, subdivision 1, is amended to read:

1.19 Subdivision 1. Who may inspect. Returns and return information must, on request, be
1.20 made open to inspection by or disclosure to the data subject. The request must be made in
1.21 writing or in accordance with written procedures of the chief disclosure officer of the
1.22 department that have been approved by the commissioner to establish the identification of

2.1 the person making the request as the data subject. For purposes of this chapter, the following  
2.2 are the data subject:

2.3 (1) in the case of an individual return, that individual;

2.4 (2) in the case of an income tax return filed jointly, either of the individuals with respect  
2.5 to whom the return is filed;

2.6 (3) in the case of a return filed by a business entity, an officer of a corporation, a  
2.7 shareholder owning more than one percent of the stock, or any shareholder of an S  
2.8 corporation; a general partner in a partnership; the owner of a sole proprietorship; a member  
2.9 or manager of a limited liability company; a participant in a joint venture; the individual  
2.10 who signed the return on behalf of the business entity; or an employee who is responsible  
2.11 for handling the tax matters of the business entity, such as the tax manager, bookkeeper, or  
2.12 managing agent;

2.13 (4) in the case of an estate return:

2.14 (i) the personal representative or trustee of the estate; and

2.15 (ii) any beneficiary of the estate as shown on the federal estate tax return;

2.16 (5) in the case of a trust return:

2.17 (i) the trustee or trustees, jointly or separately; and

2.18 (ii) any beneficiary of the trust as shown in the trust instrument;

2.19 (6) if liability has been assessed to a transferee under section 270C.58, subdivision 1,  
2.20 the transferee is the data subject with regard to the returns and return information relating  
2.21 to the assessed liability;

2.22 (7) in the case of an Indian tribal government or an Indian tribal government-owned  
2.23 entity:

2.24 (i) the chair of the tribal government; or

2.25 (ii) any person authorized by the tribal government; ~~and~~

2.26 (8) in the case of a successor as defined in section 270C.57, subdivision 1, paragraph  
2.27 (b), the successor is the data subject and information may be disclosed as provided by section  
2.28 270C.57, subdivision 4.; and

2.29 (9) in the case of a gift return, the donor.

2.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

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

3.2 Subdivision 1. **Tax amount.** (a) The tax imposed must be computed by applying to the  
 3.3 Minnesota taxable estate the following schedule of rates in paragraph (b), and then  
 3.4 multiplying the resulting amount multiplied by a fraction, not greater than one, the numerator  
 3.5 of which is the value of the Minnesota gross estate plus the value of gifts under section  
 3.6 291.016, subdivision 2, clause (3), with a Minnesota situs, and the denominator of which  
 3.7 is the federal gross estate plus the value of gifts under section 291.016, subdivision 2, clause  
 3.8 (3), reduced by the amount of gift tax paid by the decedent under section 292.23 on gifts  
 3.9 included in the Minnesota taxable estate and not subtracted as qualified farm or small  
 3.10 business property:

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

3.12	Amount of Minnesota Taxable Estate	Rate of Tax
3.13	Not over \$5,100,000	<del>12 percent</del>
3.14	Over \$5,100,000 but not over \$7,100,000	<del>\$612,000 plus 12.8 percent of the excess over</del>
3.15		<del>\$5,100,000</del>
3.16	Over \$7,100,000 but not over \$8,100,000	<del>\$868,000 plus 13.6 percent of the excess over</del>
3.17		<del>\$7,100,000</del>
3.18	Over \$8,100,000 but not over \$9,100,000	<del>\$1,004,000 plus 14.4 percent of the excess</del>
3.19		<del>over \$8,100,000</del>
3.20	Over \$9,100,000 but not over \$10,100,000	<del>\$1,148,000 plus 15.2 percent of the excess</del>
3.21		<del>over \$9,100,000</del>
3.22	Over \$10,100,000	<del>\$1,300,000 plus 16 percent of the excess over</del>
3.23		<del>\$10,100,000</del>

3.24 (b) For estates of decedents dying in 2018 and thereafter:

3.25	Amount of Minnesota Taxable Estate	Rate of Tax
3.26	Not over \$7,100,000	13 percent
3.27	Over \$7,100,000 but not over \$8,100,000	\$923,000 plus 13.6 percent of the excess over
3.28		\$7,100,000
3.29	Over \$8,100,000 but not over \$9,100,000	\$1,059,000 plus 14.4 percent of the excess
3.30		over \$8,100,000
3.31	Over \$9,100,000 but not over \$10,100,000	\$1,203,000 plus 15.2 percent of the excess
3.32		over \$9,100,000
3.33	Over \$10,100,000	\$1,355,000 plus 16 percent of the excess over
3.34		\$10,100,000

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

3.37 Sec. 4. **[292.22] DEFINITIONS.**

3.38 (a) For purposes of this chapter, the following definitions apply.

3.39 (b) The definitions of terms defined in section 291.005 apply.

4.1 (c) "Resident" has the meaning given in section 290.01, subdivision 7, paragraph (a).

4.2 (d) "Taxable gifts" means:

4.3 (1) the transfers by gift that are included in taxable gifts for federal gift tax purposes  
4.4 under the following sections of the Internal Revenue Code:

4.5 (i) section 2503;

4.6 (ii) sections 2511 to 2514; and

4.7 (iii) sections 2516 to 2519; less

4.8 (2) the deductions allowed in sections 2522 to 2524 of the Internal Revenue Code.

4.9 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
4.10 2019.

4.11 **Sec. 5. [292.23] GIFT TAX.**

4.12 Subdivision 1. **Imposition.** (a) A tax is imposed on the transfer of property by gift by  
4.13 any individual resident or nonresident in an amount equal to ten percent of the amount of  
4.14 the taxable gift.

4.15 (b) The donor is liable for payment of the tax. If the gift tax is not paid when due, the  
4.16 donee of any gift is personally liable for the tax to the extent of the value of the gift.

4.17 Subd. 2. **Lifetime credit.** A credit is allowed against the tax imposed under this section  
4.18 equal to \$100,000. This credit applies to the cumulative amount of taxable gifts made by  
4.19 the donor during the donor's lifetime.

4.20 Subd. 3. **Out-of-state gifts.** Taxable gifts exclude the transfer of:

4.21 (1) real property located outside of this state;

4.22 (2) tangible personal property that was normally kept at a location outside of the state  
4.23 on the date the gift was executed; and

4.24 (3) intangible personal property made by an individual who was not a resident at the  
4.25 time the gift was executed.

4.26 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
4.27 2019.

5.1 Sec. 6. **[292.24] RETURNS.**

5.2 (a) Any individual who makes a taxable gift during the taxable year shall file a gift tax  
5.3 return in the form and manner prescribed by the commissioner.

5.4 (b) If the donor dies before filing the return, the executor of the donor's will or the  
5.5 administrator of the donor's estate shall file the return. If the donor becomes legally  
5.6 incompetent before filing the return, the guardian or conservator shall file the return.

5.7 (c) The return must include:

5.8 (1) each gift made during the calendar year that is to be included in computing the taxable  
5.9 gifts;

5.10 (2) the deductions claimed and allowable under section 292.22, paragraph (d), clause  
5.11 (2);

5.12 (3) a description of the gift, and the donee's name, address, and Social Security number;

5.13 (4) the fair market value of gifts not made in money; and

5.14 (5) any other information the commissioner requires to administer the gift tax.

5.15 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
5.16 2019.

5.17 Sec. 7. **[292.25] FILING REQUIREMENTS.**

5.18 Gift tax returns must be filed by the April 15 following the close of the calendar year,  
5.19 except if a gift is made during the calendar year in which the donor dies, the return for the  
5.20 donor must be filed by the last date, including extensions, for filing the gift tax return for  
5.21 federal gift tax purposes for the donor.

5.22 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
5.23 2019.

5.24 Sec. 8. **[292.26] APPRAISAL OF PROPERTY; DECLARATION BY DONOR.**

5.25 The commissioner may require the donor or the donee to show the property subject to  
5.26 the tax under section 292.23 to the commissioner upon demand and may employ a suitable  
5.27 person to appraise the property. The donor shall submit a declaration, in a form prescribed  
5.28 by the commissioner and including any certification required by the commissioner, that the  
5.29 property shown by the donor on the gift tax return includes all of the property transferred

6.1 by gift for the calendar year and not deductible under section 292.22, paragraph (d), clause  
 6.2 (2).

6.3 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
 6.4 2019.

6.5 Sec. 9. **[292.27] ADMINISTRATIVE PROVISIONS.**

6.6 Subdivision 1. **Payment of tax; penalty for late payment.** The tax imposed under  
 6.7 section 292.23 is due and payable to the commissioner by the April 15 following the close  
 6.8 of the calendar year during which the gift was made. The return required under sections  
 6.9 292.24 and 292.25 must be included with the payment. If a taxable gift is made during the  
 6.10 calendar year in which the donor dies, the due date is the last date, including extensions,  
 6.11 for filing the gift tax return for federal gift tax purposes for the donor. If any person fails to  
 6.12 pay the tax due within the time specified under this section, a penalty applies equal to ten  
 6.13 percent of the amount due and unpaid or \$100, whichever is greater. The unpaid tax and  
 6.14 penalty bear interest at the rate under section 270C.40 from the due date of the return.

6.15 Subd. 2. **Extensions.** The commissioner may, for good cause, extend the time for filing  
 6.16 a gift tax return, if a written request is filed with a tentative return accompanied by a payment  
 6.17 of the tax, which is estimated in the tentative return, on or before the last day for filing the  
 6.18 return. Any person to whom an extension is granted must pay, in addition to the tax, interest  
 6.19 at the rate under section 270C.40 from the date on which the tax would have been due  
 6.20 without the extension.

6.21 Subd. 3. **Changes in federal gift tax.** If the amount of a taxpayer's taxable gifts for  
 6.22 federal gift tax purposes, as reported on the taxpayer's federal gift tax return for any calendar  
 6.23 year, is changed or corrected by the Internal Revenue Service or other officer of the United  
 6.24 States or other competent authority, the taxpayer shall report the change or correction in  
 6.25 federal taxable gifts within 180 days after the final determination of the change or correction,  
 6.26 and concede the accuracy of the determination or provide a letter detailing how the federal  
 6.27 determination is incorrect or does not change the Minnesota gift tax. Any taxpayer filing  
 6.28 an amended federal gift tax return shall also file within 180 days an amended return under  
 6.29 this chapter and shall include any information the commissioner requires. The time for filing  
 6.30 the report or amended return may be extended by the commissioner upon due cause shown.  
 6.31 Notwithstanding any limitation of time in this chapter, if, upon examination, the  
 6.32 commissioner finds that the taxpayer is liable for the payment of an additional tax, the  
 6.33 commissioner shall, within a reasonable time from the receipt of the report or amended  
 6.34 return, notify the taxpayer of the amount of additional tax, together with interest computed

7.1 at the rate under section 270C.40 from the date when the original tax was due and payable.  
7.2 Within 30 days of the mailing of the notice, the taxpayer shall pay the commissioner the  
7.3 amount of the additional tax and interest. If, upon examination of the report or amended  
7.4 return and related information, the commissioner finds that the taxpayer has overpaid the  
7.5 tax due the state, the commissioner shall refund the overpayment to the taxpayer.

7.6 Subd. 4. **Application of federal rules.** In administering the tax under this chapter, the  
7.7 commissioner shall apply the provisions of sections 2701 to 2704 of the Internal Revenue  
7.8 Code. The words "secretary or his delegate," as used in those sections of the Internal Revenue  
7.9 Code, mean the commissioner.

7.10 **EFFECTIVE DATE.** This section is effective for taxable gifts made after June 30,  
7.11 2019.