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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2915

05/19/2019 Authored by Edelson
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; providing for a deceased spousal unused exclusion
1.3 amount; amending Minnesota Statutes 2018, sections 289A.38, by adding a
1.4 subdivision; 291.016, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2014, section 289A.38, is amended by adding a subdivision
1.7 to read:

1.8 Subd. 17. Estate tax returns; unused deceased spousal exclusion. Notwithstanding
1.9 any period of limitation in this section, after the time has expired within which a tax may
1.10 be assessed with respect to the unused deceased spousal exclusion in section 291.016,
1.11 subdivision 4, the commissioner may examine a return of the deceased spouse to make
1.12 determinations with respect to that amount to carry out the purposes of section 291.016.

1.13 EFFECTIVE DATE. This section is effective for estates of decedents dying after
1.14 December 31, 2019.

1.15 Sec. 2. Minnesota Statutes 2018, section 291.016, is amended by adding a subdivision to
1.16 read:

1.17 Subd. 4. Unused deceased spousal exclusion. (a) In addition to the subtraction in
1.18 subdivision 3, an estate is allowed a subtraction equal to the amount of the unused deceased
1.19 spousal exclusion determined in paragraph (b). To qualify for the subtraction, the decedent
1.20 must be the surviving spouse of the surviving spouse's last deceased spouse and must be an
1.21 heir or beneficiary of the last deceased spouse's estate. In addition, the estate of the last
1.22 deceased spouse must satisfy all of the following requirements:

2.1 (1) the estate was allowed a subtraction under subdivision 3 in an amount that is less  
2.2 than the maximum allowable exclusion under subdivision 3, determined without regard to  
2.3 any subtraction allowed under this subdivision, for the year in which the deceased spouse  
2.4 died;

2.5 (2) the estate made an irrevocable election on an estate tax return that is filed within the  
2.6 time prescribed by law, including extensions, for filing that return, to provide a subtraction  
2.7 allowed to the estate of the surviving spouse under this subdivision; and

2.8 (3) the value of last deceased spouse's taxable estate was zero.

2.9 (b) The unused deceased spousal exclusion is equal to the amount of the difference, if  
2.10 any, between the amount of the last deceased spouse's exclusion under subdivision 3,  
2.11 paragraph (b), and the value, excluding the amount of any subtraction allowed in this  
2.12 subdivision, of the last deceased spouse's Minnesota taxable estate. The amount of the  
2.13 unused deceased spousal exclusion may not exceed the maximum exclusion amount allowed  
2.14 in subdivision 3, paragraph (b).

2.15 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after  
2.16 December 31, 2019.