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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 706

02/09/2015 Authored by Miller, Drazkowski, Davids, Lohmer, Backer and others  
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 tax; modifying which gifts are included in the estate;  
1.3 amending Minnesota Statutes 2014, sections 289A.10, subdivision 1; 291.005,  
1.4 subdivision 1, as amended; 291.016, subdivision 2.

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

1.6 Section 1. Minnesota Statutes 2014, section 289A.10, subdivision 1, is amended to read:

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

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

1.11 (2) the sum of the federal gross estate and federal adjusted taxable gifts, as defined  
1.12 in section 2001(b) of the Internal Revenue Code, made within ~~three years~~ one year of the  
1.13 date of the decedent's death exceeds \$1,200,000 for estates of decedents dying in 2014;  
1.14 \$1,400,000 for estates of decedents dying in 2015; \$1,600,000 for estates of decedents  
1.15 dying in 2016; \$1,800,000 for estates of decedents dying in 2017; and \$2,000,000 for  
1.16 estates of decedents dying in 2018 and thereafter.

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

1.19 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after  
1.20 December 31, 2014.

1.21 Sec. 2. Minnesota Statutes 2014, section 291.005, subdivision 1, as amended by Laws  
1.22 2015, chapter 1, section 5, is amended to read:

2.1 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following  
2.2 terms used in this chapter shall have the following meanings:

2.3 (1) "Commissioner" means the commissioner of revenue or any person to whom the  
2.4 commissioner has delegated functions under this chapter.

2.5 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued  
2.6 and otherwise determined for federal estate tax purposes under the Internal Revenue Code,  
2.7 increased by the value of any property in which the decedent had a qualifying income  
2.8 interest for life and for which an election was made under section 291.03, subdivision 1d,  
2.9 for Minnesota estate tax purposes, but was not made for federal estate tax purposes.

2.10 (3) "Internal Revenue Code" means the United States Internal Revenue Code of  
2.11 1986, as amended through December 31, 2014.

2.12 (4) "Minnesota gross estate" means the federal gross estate of a decedent after  
2.13 (a) excluding therefrom any property included in the estate which has its situs outside  
2.14 Minnesota, and (b) including any property omitted from the federal gross estate which  
2.15 is includable in the estate, has its situs in Minnesota, and was not disclosed to federal  
2.16 taxing authorities.

2.17 (5) "Nonresident decedent" means an individual whose domicile at the time of  
2.18 death was not in Minnesota.

2.19 (6) "Personal representative" means the executor, administrator or other person  
2.20 appointed by the court to administer and dispose of the property of the decedent. If there  
2.21 is no executor, administrator or other person appointed, qualified, and acting within this  
2.22 state, then any person in actual or constructive possession of any property having a situs in  
2.23 this state which is included in the federal gross estate of the decedent shall be deemed  
2.24 to be a personal representative to the extent of the property and the Minnesota estate tax  
2.25 due with respect to the property.

2.26 (7) "Resident decedent" means an individual whose domicile at the time of death  
2.27 was in Minnesota.

2.28 (8) "Situs of property" means, with respect to:

2.29 (i) real property, the state or country in which it is located;

2.30 (ii) tangible personal property, the state or country in which it was normally kept  
2.31 or located at the time of the decedent's death or for a gift of tangible personal property  
2.32 within ~~three years~~ one year of death, the state or country in which it was normally kept or  
2.33 located when the gift was executed;

2.34 (iii) a qualified work of art, as defined in section 2503(g)(2) of the Internal Revenue  
2.35 Code, owned by a nonresident decedent and that is normally kept or located in this state  
2.36 because it is on loan to an organization, qualifying as exempt from taxation under section

3.1 501(c)(3) of the Internal Revenue Code, that is located in Minnesota, the situs of the art is  
 3.2 deemed to be outside of Minnesota, notwithstanding the provisions of item (ii); and

3.3 (iv) intangible personal property, the state or country in which the decedent was  
 3.4 domiciled at death or for a gift of intangible personal property within ~~three years~~ one year of  
 3.5 death, the state or country in which the decedent was domiciled when the gift was executed.

3.6 For a nonresident decedent with an ownership interest in a pass-through entity with  
 3.7 assets that include real or tangible personal property, situs of the real or tangible personal  
 3.8 property, including qualified works of art, is determined as if the pass-through entity does  
 3.9 not exist and the real or tangible personal property is personally owned by the decedent.

3.10 If the pass-through entity is owned by a person or persons in addition to the decedent,  
 3.11 ownership of the property is attributed to the decedent in proportion to the decedent's  
 3.12 capital ownership share of the pass-through entity.

3.13 (9) "Pass-through entity" includes the following:

3.14 (i) an entity electing S corporation status under section 1362 of the Internal Revenue  
 3.15 Code;

3.16 (ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

3.17 (iii) a single-member limited liability company or similar entity, regardless of  
 3.18 whether it is taxed as an association or is disregarded for federal income tax purposes  
 3.19 under Code of Federal Regulations, title 26, section 301.7701-3; or

3.20 (iv) a trust to the extent the property is includible in the decedent's federal gross  
 3.21 estate; but excludes

3.22 (v) an entity whose ownership interest securities are traded on an exchange regulated  
 3.23 by the Securities and Exchange Commission as a national securities exchange under  
 3.24 section 6 of the Securities Exchange Act, United States Code, title 15, section 78f.

3.25 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after  
 3.26 December 31, 2014.

3.27 Sec. 3. Minnesota Statutes 2014, section 291.016, subdivision 2, is amended to read:

3.28 Subd. 2. **Additions.** The following amounts, to the extent deducted in computing  
 3.29 the federal taxable estate, must be added in computing the Minnesota taxable estate:

3.30 (1) the amount of the deduction for state death taxes allowed under section 2058 of  
 3.31 the Internal Revenue Code;

3.32 (2) the amount of the deduction for foreign death taxes allowed under section  
 3.33 2053(d) of the Internal Revenue Code; and

3.34 (3) the aggregate amount of taxable gifts as defined in section 2503 of the Internal  
 3.35 Revenue Code, made by the decedent within ~~three years~~ one year of the date of death.

4.1 For purposes of this clause, the amount of the addition equals the value of the gift under  
4.2 section 2512 of the Internal Revenue Code and excludes any value of the gift included  
4.3 in the federal estate.

4.4 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after  
4.5 December 31, 2014.