

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 2918

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DATE	D-PG	OFFICIAL STATUS
03/17/2016	5115	Introduction and first reading Referred to Taxes

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A bill for an act relating to taxation; making technical and clarifying changes to property tax, income tax, estate tax, and sales tax provisions; amending Minnesota Statutes 2014, sections 273.13, subdivision 22; 290.17, subdivision 2; 291.016, subdivision 3; 291.03, subdivision 9; 297A.61, subdivision 10.

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

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Section 1. Minnesota Statutes 2014, section 273.13, subdivision 22, is amended to read:  
Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

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The first \$500,000 of market value of class 1a property has a net classification rate of one percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a classification rate of 1.25 percent of its market value.

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(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by:

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(1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse;

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(2) any person who is permanently and totally disabled or by the disabled person and the disabled person's spouse; or

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(3) the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008.

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Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the

homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34.

Property is classified and assessed under paragraph (b) only if the commissioner of revenue or the county assessor certifies that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$50,000 market value of class 1b property has a net classification rate of .45 percent of its market value. The remaining market value of class 1b property ~~has a classification rate using the rates for~~ is classified as class 1a or class 2a property, whichever is appropriate, ~~of similar market value.~~

(c) Class 1c property is commercial use real and personal property that abuts public water as defined in section 103G.005, subdivision 15, and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this paragraph, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. Class 1c property must contain three or more rental units. A "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 1c property must provide recreational activities such as the rental of ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle. Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. A camping pad offered for rent by a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days. If the same owner owns two separate parcels that are located in the same township, and one of those properties is classified as a class 1c property and the other would be eligible to be classified as a class 1c property if it was used as the homestead of the owner, both properties will be assessed as a single class 1c

property; for purposes of this sentence, properties are deemed to be owned by the same owner if each of them is owned by a limited liability company, and both limited liability companies have the same membership. The portion of the property used as a homestead is class 1a property under paragraph (a). The remainder of the property is classified as follows: the first \$600,000 of market value is tier I, the next \$1,700,000 of market value is tier II, and any remaining market value is tier III. The classification rates for class 1c are: tier I, 0.50 percent; tier II, 1.0 percent; and tier III, 1.25 percent. Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes in which all or a portion of the property was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated as class 1c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located must be designated as class 3a commercial. The owner of property desiring designation as class 1c property must provide guest registers or other records demonstrating that the units for which class 1c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 1c.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same classification rates as class 1a property under paragraph (a).

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

4.1 Sec. 2. Minnesota Statutes 2014, section 290.17, subdivision 2, is amended to read:

4.2 Subd. 2. **Income not derived from conduct of a trade or business.** The income of  
4.3 a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or  
4.4 business must be assigned in accordance with paragraphs (a) to (f):

4.5 (a)(1) Subject to paragraphs (a)(2) and (a)(3), income from wages as defined in  
4.6 section 3401(a) and (f) of the Internal Revenue Code is assigned to this state if, and to the  
4.7 extent that, the work of the employee is performed within it; all other income from such  
4.8 sources is treated as income from sources without this state.

4.9 Severance pay shall be considered income from labor or personal or professional  
4.10 services.

4.11 (2) In the case of an individual who is a nonresident of Minnesota and who is an  
4.12 athlete or entertainer, income from compensation for labor or personal services performed  
4.13 within this state shall be determined in the following manner:

4.14 (i) The amount of income to be assigned to Minnesota for an individual who is a  
4.15 nonresident salaried athletic team employee shall be determined by using a fraction in  
4.16 which the denominator contains the total number of days in which the individual is under  
4.17 a duty to perform for the employer, and the numerator is the total number of those days  
4.18 spent in Minnesota. For purposes of this paragraph, off-season training activities, unless  
4.19 conducted at the team's facilities as part of a team imposed program, are not included in  
4.20 the total number of duty days. Bonuses earned as a result of play during the regular season  
4.21 or for participation in championship, play-off, or all-star games must be allocated under  
4.22 the formula. Signing bonuses are not subject to allocation under the formula if they are  
4.23 not conditional on playing any games for the team, are payable separately from any other  
4.24 compensation, and are nonrefundable; and

4.25 (ii) The amount of income to be assigned to Minnesota for an individual who is a  
4.26 nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's  
4.27 athletic or entertainment performance in Minnesota shall be determined by assigning to  
4.28 this state all income from performances or athletic contests in this state.

4.29 (3) For purposes of this section, amounts received by a nonresident as "retirement  
4.30 income" as defined in section (b)(1) of the State Income Taxation of Pension Income  
4.31 Act, Public Law 104-95, are not considered income derived from carrying on a trade  
4.32 or business or from wages or other compensation for work an employee performed in  
4.33 Minnesota, and are not taxable under this chapter.

4.34 (b) Income or gains from tangible property located in this state that is not employed  
4.35 in the business of the recipient of the income or gains must be assigned to this state.

(c) Income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of an interest in a single member limited liability company that is disregarded for federal income tax purposes is allocable to this state as if the single member limited liability company did not exist and the assets of the limited liability company are personally owned by the sole member.

Gain on the sale of goodwill or income from a covenant not to compete that is connected with a business operating all or partially in Minnesota is allocated to this state to the extent that the income from the business in the year preceding the year of sale was ~~assignable~~ allocable to Minnesota under subdivision 3.

When an employer pays an employee for a covenant not to compete, the income allocated to this state is in the ratio of the employee's service in Minnesota in the calendar year preceding leaving the employment of the employer over the total services performed by the employee for the employer in that year.

(d) Income from winnings on a bet made by an individual while in Minnesota is assigned to this state. In this paragraph, "bet" has the meaning given in section 609.75, subdivision 2, as limited by section 609.75, subdivision 3, clauses (1), (2), and (3).

(e) All items of gross income not covered in paragraphs (a) to (d) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

(f) For the purposes of this section, working as an employee shall not be considered to be conducting a trade or business.

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

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

Subd. 3. **Subtraction.** The following amounts, to the extent included in computing the federal taxable estate, may be subtracted in computing the Minnesota taxable estate but must not reduce the Minnesota taxable estate to less than zero:

(1) the value of property subject to an election under section 291.03, subdivision 1d; and

(2) the value of qualified small business property under section 291.03, subdivision 9, and the value of qualified farm property under section 291.03, subdivision 10, or the result of \$5,000,000 minus the amount for the year of death listed in clauses (1) to (5) items (i) to (v), whichever is less, may be subtracted in computing the Minnesota taxable estate but must not reduce the Minnesota taxable estate to less than zero:

~~(1)~~ (i) \$1,200,000 for estates of decedents dying in 2014;

~~(2)~~ (ii) \$1,400,000 for estates of decedents dying in 2015;

~~(3)~~ (iii) \$1,600,000 for estates of decedents dying in 2016;

~~(4)~~ (iv) \$1,800,000 for estates of decedents dying in 2017; and

~~(5)~~ (v) \$2,000,000 for estates of decedents dying in 2018 and thereafter.

**EFFECTIVE DATE.** This section is effective retroactively for estates of decedents dying after June 30, 2011.

Sec. 4. Minnesota Statutes 2014, section 291.03, subdivision 9, is amended to read:

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. 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. For purposes of this subdivision, an ownership interest includes the interest the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code.

(3) During the taxable year that ended before the decedent's death, the trade or business must not have been a passive activity within the meaning of section 469(c) of the Internal Revenue Code, and the decedent or the decedent's spouse must have materially participated in the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Treasury Department regulation that substitutes material participation in prior taxable years for material participation in the taxable year that ended before the decedent's death.

(4) 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.

7.1 (5) The property does not ~~consist of~~ include:

7.2 (i) cash;<sub>2</sub>

7.3 (ii) cash equivalents;<sub>2</sub>

7.4 (iii) publicly traded securities;<sub>2</sub> or

7.5 (iv) any assets not used in the operation of the trade or business.

7.6 (6) For property consisting of shares of stock or other ownership interests in an  
7.7 entity, the value of ~~cash, cash equivalents, publicly traded securities, or assets not used~~  
7.8 ~~in the operation of the trade or business held by the corporation or other entity~~ items  
7.9 described in clause (5) must be deducted from the value of the property qualifying under  
7.10 ~~this subdivision in proportion to the decedent's share of ownership of the entity on the date~~  
7.11 ~~of death~~ excluded in the valuation of the decedent's interest in the entity.

7.12 ~~(6)~~ (7) The decedent continuously owned the property, including property the  
7.13 decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue  
7.14 Code, for the three-year period ending on the date of death of the decedent. In the case of  
7.15 a sole proprietor, if the property replaced similar property within the three-year period,  
7.16 the replacement property will be treated as having been owned for the three-year period  
7.17 ending on the date of death of the decedent.

7.18 ~~(7)~~ (8) For three years following the date of death of the decedent, the trade or business  
7.19 is not a passive activity within the meaning of section 469(c) of the Internal Revenue Code,  
7.20 and a family member materially participates in the operation of the trade or business within  
7.21 the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3)  
7.22 of the Internal Revenue Code and any other provision provided by United States Treasury  
7.23 Department regulation that substitutes material participation in prior taxable years for  
7.24 material participation in the three years following the date of death of the decedent.

7.25 ~~(8)~~ (9) The estate and the qualified heir elect to treat the property as qualified small  
7.26 business property and agree, in the form prescribed by the commissioner, to pay the  
7.27 recapture tax under subdivision 11, if applicable.

7.28 **EFFECTIVE DATE.** This section is effective retroactively for estates of decedents  
7.29 dying after June 30, 2011.

7.30 Sec. 5. Minnesota Statutes 2014, section 297A.61, subdivision 10, is amended to read:

7.31 Subd. 10. **Tangible personal property.** (a) "Tangible personal property" means  
7.32 personal property that can be seen, weighed, measured, felt, or touched, or that is in any  
7.33 other manner perceptible to the senses. "Tangible personal property" includes, but is not  
7.34 limited to, electricity, water, gas, steam, and prewritten computer software.

7.35 (b) Tangible personal property does not include:

- 8.1 ~~(1) large ponderous machinery and equipment used in a business or production~~  
8.2 ~~activity which at common law would be considered to be real property;~~  
8.3 ~~(2)~~ (1) property which is subject to an ad valorem property tax;  
8.4 ~~(3)~~ (2) property described in section 272.02, subdivision 9, clauses (a) to (d);  
8.5 ~~(4)~~ (3) property described in section 272.03, subdivision 2, clauses (3) and (5); and  
8.6 ~~(5)~~ (4) specified digital products, or other digital products, transferred electronically.

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