

estate of every person who, at the time of his death, was a resident of this state or was a nonresident with property taxable under this chapter. The amount of the tax shall be computed by the commissioner and shall be assessed as an additional amount of inheritance tax, as fixed in accordance with the provisions of sections 291.34 to 291.40. Except as otherwise provided herein the amount of the tax so assessed shall be the amount by which the maximum credit which the federal government will allow as a credit for state death taxes under the federal estate tax law shall exceed the aggregate amount of all estate, inheritance, legacy, and succession taxes actually paid to the several states of the United States in respect to any property owned by such decedent, or subject to such taxes as a part of or in connection with his estate.

Where the decedent was a nonresident the amount of tax imposed by this section shall be in the same proportion of the maximum tax imposed herein as the value of the property taxable under this chapter bears to the value of the entire estate subject to the estate tax under the internal revenue code as amended.

Sec. 2. The provisions of this act shall be effective for all deaths occurring after June 30, 1971.

Approved June 4, 1971.

CHAPTER 757—S.F.No.2410

An act relating to inheritance and gift taxation; affecting the taxation of disclaimed interests; amending Minnesota Statutes 1969, Sections 291.111, and 292.031.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 291.111, is amended to read:

291.111 INHERITANCE AND GIFT TAXATION; DISCLAIMED INTERESTS. Subdivision 1. Transfers of any interest in real or personal property and all rights and powers relating to the same which have been duly disclaimed pursuant to the provisions of Laws 1965, Chapter 552 Minnesota Statutes 1969, Sections 501.211 and 525.532, or in any ~~other valid manner~~, provided in subdivision 2 herein shall be subject to the inheritance tax imposed by Minnesota Statutes, Chapter 291, and acts amendatory thereof only if, and to the

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same extent and in the same manner as, the same would have been subject to said tax if said interests, rights or powers had been originally created in favor of and transferred to the same persons and in the same shares in which they are effectively distributed or otherwise disposed of, after giving full effect to such disclaimers, pursuant to the governing instrument, if any, and ~~Laws 1965, Chapter 552~~ Minnesota Statutes, Sections 501.211 and 525.532 and all other applicable law.

Subd. 2. An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part pursuant to sections 501.211 or 525.532 provided:

(1) The surviving spouse has, pursuant to section 525.212, refused to accept the provisions of the will and has elected to take the statutory share under section 525.16; but such statutory share shall not be deemed disclaimed unless such surviving spouse makes a timely disclaimer thereof.

(2) In a controversy over the will, the court has made its order decreeing the property in a manner as provided by the will; or the court has approved a settlement between the parties claiming adversely to each other, and the property has been decreed by the court in a manner other than as provided by the will. Nothing contained herein shall be construed as making any settlement between the parties effective as a disclaimer, unless the court issues its decree of distribution in accordance with such settlement.

(3) (a) The survivor or survivors of a bank deposit or certificate of deposit held in the names of the decedent and such survivor or survivors has authorized the inclusion of the proceeds of such bank deposit or certificate of deposit in the inventory and appraisal required to be filed by the representative or executor of the estate of such decedent pursuant to law.

(b) For purposes of this clause, a bank deposit or certificate shall include a checking account or savings account in a banking institution as defined in Minnesota Statutes, Section 48.01, Subdivision 2, or in a federal savings and loan association, or in any other savings institution authorized to accept deposits.

Sec. 2. Minnesota Statutes 1969, Section 292.031, is amended to read:

292.031 TAXATION OF DISCLAIMED INTERESTS. Subdivision 1. A disclaimer of an interest in real or personal property or of rights or powers relating to the same pursuant to the provisions of Laws 1965, Chapter 552 Minnesota Statutes, Sections 501.211 and 525.532, or in any the other valid manner provided in subdivision 2 herein shall not be deemed to constitute a gift by the person so

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disclaiming for purposes of the gift tax imposed by Minnesota Statutes, Chapter 292, and acts amendatory thereof, even though such disclaimer may result in the transfer of some interest in the property in which the same existed to another person, the vesting of such interest or property in such other person or the enlargement of an interest or property right already possessed by such other person.

Subd. 2. An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part pursuant to sections 501.211 or 525.532, provided that in the event of a court action over the validity of a gift or the mental capacity of a donor to make a gift or for any other cause, the court having jurisdiction of the matter has issued an order cancelling, modifying or otherwise altering the interests subject to the gift, either subsequent to a hearing on the merits or in accordance with an agreement between the parties prior to termination of the hearing. Nothing contained herein shall be construed as making any settlement between the parties effective as a disclaimer unless the court issues its order confirming and approving such settlement.

Approved June 4, 1971.

CHAPTER 758—S.F.No.2412

An act relating to taxes on and measured by net income; limiting losses from sales or exchanges of capital assets; providing for capital loss carrybacks and carryovers; amending Minnesota Statutes 1969, Section 290.16, Subdivisions 4, 5 and 6.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 290.16, Subdivision 4, is amended to read:

Subd. 4. **TAXATION; INCOME TAX; CAPITAL GAINS AND LOSSES.** If for any taxable year the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of such excess shall be a deduction from gross income. ~~In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any), of the gains for the taxable year from sales or exchanges of capital assets, which, under section 290.23 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.~~

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