
CHAPTER 741-H.F.No.551

[Coded in Part]

An act relating to taxation; providing for transfer of jointly held property to heirs of decedent joint tenant; clarifying marital exemption provisions; providing for deduction for certain taxes on estates of nonresidents; clarifying time for filing and extension; providing for abatement of penalties in cases of reasonable cause for delay; correcting references to probate code provisions; amending Minnesota Statutes 1976, Sections 291.01, Subdivision 4; 291.051, Subdivision 1; 291.08; 291.09, by adding a subdivision; 291.11, Subdivision 1; 291.131, Subdivision 2; 291.20, Subdivision 3; 291.40; 524.3-1201; and 524.3-1202.

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

Section 1. Minnesota Statutes 1976, Section 291.01, Subdivision 4, is amended to read:

Subd. 4. JOINTLY OWNED PROPERTY. Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositories in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors: Provided, where any property has been acquired prior to April 29, 1935, by the decedent and spouse, as joint tenants, not in excess of one-half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

Where personal property is held in joint names, such property shall be deemed to be transferred to the survivors as provided in this subdivision unless it is established to the satisfaction of the commissioner that the decedent intended a different disposition. Upon the showing of evidence of that intent to the commissioner, the right of survivorship shall not be deemed to be a transfer to the named survivors subject to the inheritance tax, provided the survivors make the disposition according to the evidenced intention of the decedent and present to the commissioner statements signed by the transferees acknowledging receipt of the property from the named survivors; the disposition by the survivors to the transferees shall be deemed a transfer from the decedent to the transferees and shall be subject to the inheritance tax imposed by this chapter. This paragraph shall not apply to cases where the aggregate value of joint tenancy assets exceeds \$30,000.

Changes or additions indicated by underline deletions by strikeout

Sec. 2. Minnesota Statutes 1976, Section 291.051, Subdivision 1, is amended to read:

291.051 **MARITAL EXEMPTION TAX.** Subdivision 1. **DEFINITIONS.** For the purposes of this section, the terms defined in this subdivision shall have the meaning given them herein.

"Marital exemption" means 50 percent, but not more than \$250,000, of the net taxable value passing to the surviving spouse of a decedent domiciled in Minnesota at the time of his death; ~~reduced by the value of real property outside Minnesota and tangible personal property permanently located outside Minnesota.~~

"Net taxable value" means the gross value passing to the surviving spouse, reduced by the value of real property outside Minnesota and tangible personal property permanently located outside Minnesota included in the gross value passing to the surviving spouse, and reduced by the deductions attributable to such gross value pursuant to section 291.07, except subdivision 1, clause (5), but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2), and (3), and 291.10.

"Marital exemption tax" means a tax imposed at the rates provided by this chapter on the value of property passing to the surviving spouse less the marital exemption, but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2) and (3) and 291.10.

Sec. 3. Minnesota Statutes 1976, Section 291.08, is amended to read:

291.08 **NONRESIDENT ESTATES; ALLOWANCE OF DEDUCTIONS AND EXEMPTIONS.** (a) Where any tax is due on the transfer of any property or interest therein owned by a nonresident, the deductions and exemptions shall be allowed as provided in clauses (b) and (c) below:

(b) Deductions.

(1) Funeral expenses to the extent incurred in Minnesota;

(2) Minnesota probate administration expense;

(3) Family maintenance to the extent provided by section 291.10, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

(4) Value of personal property to the extent of the amount allowed under section 525.15, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

(5) Federal estate taxes subject to the limitations imposed by section 291.07;

(6) Other taxes which have accrued ~~or~~ and are a lien on Minnesota property at the

Changes or additions indicated by underline deletions by ~~strikeout~~

time of death, or which are owed to Minnesota in respect of taxable income;

(7) Reasonable fees for legal or fiduciary services incident to nonprobate assets taxable in Minnesota.

(c) Exemptions. The exemptions applicable to the person entitled to a beneficial interest shall be allowed as in the case of residents under section 291.05, reduced by the maximum exemption allowed or allowable under the laws of the state of residence of the decedent.

Sec. 4. Minnesota Statutes 1976, Section 291.09, is amended by adding a subdivision to read:

Subd. 7. The inheritance tax return, except as otherwise provided in this chapter, shall be filed with the commissioner within 12 months after the decedent's death.

Sec. 5. Minnesota Statutes 1976, Section 291.11, Subdivision 1, is amended to read:

291.11 TIME EFFECTIVE. Subdivision 1. **UPON DEATH; TIME OF ASSESSMENT.** (a) All taxes imposed by this chapter shall take effect at and upon the death of the person from whom the transfer is made and shall be due and payable at the expiration of 12 months from such death, except as otherwise provided in this chapter. Provided, that any taxpayer who owes at least \$5,000 in taxes may choose to pay these taxes in five equal installments over a period of time not to exceed five years from the death of the person from whom the transfer is made or five years from the expiration of the extension granted by the commissioner pursuant to section 291.132, whichever is later. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than 12 months after the death of the person from whom the transfer is made. If the taxpayer fails to pay an installment on time, the election shall be revoked and the entire amount of unpaid tax shall be due and payable 90 days after the date on which the installment was payable.

(b) (A) False return - in the case of a false or fraudulent return with the intent to evade tax, any additional tax resulting therefrom may be assessed at any time.

(B) No return - in the case of failure to file a return, the tax may be assessed at any time.

(C) Omissions - in the case where there is omitted from the estate items subject to tax under this chapter the tax on such omitted items may be assessed at any time.

In determining the items omitted, there shall not be taken into account any item which has been disclosed in the return or in a statement attached to the return in a manner adequate to apprise the commissioner of the nature and amount of such item.

(c) Where, before the expiration of the time prescribed in this chapter for the determination or adjustment of the tax, the commissioner and the taxpayer shall consent in writing to the extension of time for such determination or adjustment the tax may be

Changes or additions indicated by underline deletions by ~~strikeout~~

determined at any time prior to the expiration agreed upon and in the manner agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) The estate tax prescribed in section 291.34, notwithstanding the period of limitations prescribed for determination of the inheritance tax in this chapter shall be determined by the commissioner not later than 90 days following the filing of the Minnesota estate tax return with the commissioner, together with a copy of the federal audit report or the closing letter accepting the federal return as originally filed.

Sec. 6. Minnesota Statutes 1976, Section 291.131, Subdivision 2, is amended to read:

Subd. 2. In case of any failure to make and file a return within the time prescribed or an extension thereof, unless it is shown that such failure is ~~not~~ due to ~~willful neglect~~ reasonable cause, a penalty of ten percent shall be added to the tax if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. This penalty shall be in lieu of the penalty provided in subdivision 1.

Sec. 7. Minnesota Statutes 1976, Section 291.20, Subdivision 3, is amended to read:

Subd. 3. Except as provided in section 524.3-1201, no corporation organized under the laws of this state shall transfer on its books or on its records kept as transfer agent for any corporation any shares of stock standing in the name of a decedent who is known to have been a resident of this state or of a foreign country at the time of his death without the written consent of the commissioner of revenue. Any corporation violating the provisions of this section shall be liable to the state for the amount of any tax due on the transfer of such shares of stock.

Sec. 8. Minnesota Statutes 1976, Section 291.40, is amended to read:

291.40 APPORTIONMENT OF ESTATE TAX. (a) The liability of each of the beneficiaries for the tax which may be imposed under section 291.34 shall be determined for purposes of this section, first, by apportioning the maximum credit allowed for state death taxes under the federal estate law among the several beneficiaries in accordance with the rules and methods provided by Minnesota Statutes, ~~Sections 525.521 through 525.524~~ Section 524.3-916; second, by deducting from the amount of the credit so apportioned to each of the beneficiaries the amount of the aggregate of all estate, inheritance, legacy and succession taxes actually paid to the several states of the United States by or on behalf of each of the several beneficiaries. The remainder resulting from each such subtraction shall be the liability of the respective beneficiaries for the tax imposed by section 291.34.

(b) The tax so imposed under (a) above shall be subject to the provisions of Minnesota Statutes, ~~Sections 525.525 through 525.527~~ Section 524.3-916.

(c) Provided, where the sum of the several liabilities for the tax so determined in (a)

Changes or additions indicated by underline deletions by strikeout

above is greater than the tax imposed under section 291.34, the tax shall be proportionately reduced for each of the several beneficiaries.

Sec. 9. Minnesota Statutes 1976, Section 524.3-1201, is amended to read:

524.3-1201 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT. (a) Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit, in duplicate, made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, wherever located, less liens and encumbrances, does not exceed \$5,000;

(2) 30 days have elapsed since the death of the decedent;

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a) notwithstanding the provisions of section 291.20, subdivision 3.

Sec. 10. Minnesota Statutes 1976, Section 524.3-1202, is amended to read:

524.3-1202 EFFECT OF AFFIDAVIT. The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to affidavit shall submit a copy of the affidavit to the commissioner of revenue within five days of its receipt and then is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Approved April 5, 1978.

Changes or additions indicated by underline deletions by ~~strikeout~~