

**CHAPTER 8023**  
**DEPARTMENT OF REVENUE**  
**INCOME TAX DIVISION**  
**ESTATES AND TRUSTS**

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**8023.0100 UNUSED LOSS CARRY-OVERS ON TERMINATION OF AN ESTATE OR TRUST.**

Subpart 1. **Carry-over allowed to estate or trust.** If, on the final termination of an estate or trust, a net operating loss carry-over under Minnesota Statutes, section 290.095 or a capital loss carry-over under Minnesota Statutes, section 290.16, subdivision 6 would be allowable to the estate or trust in a taxable year subsequent to the taxable year of termination but for the termination, the carry-over or carry-overs are allowed under Minnesota Statutes, section 290.23, subdivision 3, clause (1) to the beneficiaries succeeding to the property of the estate or trust.

Subp. 2. **Treatment as to beneficiary.** The operating loss carry-over and the capital loss carry-over are the same in the hands of a beneficiary as in the estate or trust and are taken into account in computing both taxable income and adjusted gross income. The first taxable year of the beneficiary to which the loss shall be carried over is the taxable year of the beneficiary in which or with which the estate or trust terminates. However, the last taxable year of the estate or trust (whether or not a short taxable year) and the first taxable year of the beneficiary to which a loss is carried over each constitute a taxable year for purposes of determining the number of years to which a loss may be carried over.

Subp. 3. **Example.** For example, a trust distributes all of its assets to A, the sole remainderman, and terminates on December 31, 1958, when it has a capital loss carry-over of \$10,000 attributable to transactions during the taxable year 1957. A, who reports on the calendar year basis, otherwise has ordinary income of \$10,000 and capital gains of \$4,000 for the taxable year 1958. A would offset his capital gains of \$4,000 against the capital loss of the trust and, in addition, deduct under Minnesota Statutes, section 290.16, subdivision 5, \$1,000 on his return for the taxable year 1958. The balance of the capital loss carry-over of \$5,000 may be carried over to the years 1959, 1960, 1961, and 1962. For the treatment of the net operating loss carry-over when the last taxable year of the estate or trust is the last taxable year to which such loss can be carried over, see part 8023.0500.

**Statutory Authority:** *MS s 290.52*

**8023.0200 EXCESS DEDUCTIONS ON TERMINATION OF AN ESTATE OR TRUST.**

Subpart 1. **Excess allowed.** If, on the termination of an estate or trust, the estate or trust has for its last taxable year deductions (other than the deductions allowed under Minnesota Statutes, section 290.23, subdivision 2, paragraph (a), relating to charitable contributions) in excess of gross income, the excess is allowed under Minnesota Statutes, section 290.23, subdivision 3, clause (2) as a deduction to the beneficiaries succeeding to the property of the estate or trust.

The deduction is allowed only in computing taxable income; it is not allowed in computing adjusted gross income. The deduction is allowable only in the taxable year of the beneficiary in which or with which the estate or trust terminates, whether the year of termination of the estate or trust is of normal duration or is a short taxable year.

For example, assume that a trust distributes all of its assets to B and terminates on December 31, 1957. As of that date it had excess deductions, for example, because of corpus commissions on termination, of \$18,000. B, who reported on the calendar year basis, could claim the \$18,000 as a deduction for the taxable year 1957. However, if the deduction, when added to his other deductions, exceeds his gross income, the excess may not be carried over to the year 1958 or subsequent years.

**Subp. 2. Limitation on beneficiary.** A deduction based upon a net operating loss carry-over will never be allowed to beneficiaries under both clauses (1) and (2) of Minnesota Statutes, section 290.23, subdivision 3. Accordingly, a net operating loss deduction which is allowable to beneficiaries succeeding to the property of the estate or trust under the provisions of Minnesota Statutes, section 290.23, subdivision 3, clause (1) cannot also be considered a deduction for purposes of subpart 1 and Minnesota Statutes, section 290.23, subdivision 3, clause (2). However, if the last taxable year of the estate or trust is the last year in which a deduction on account of a net operating loss may be taken, the deduction, to the extent not absorbed in that taxable year by the estate or trust, is considered an "excess deduction" under subpart 1 and Minnesota Statutes, section 290.23, subdivision 3, clause (2).

**Subp. 3. Limitation on determination.** Any item of income or deduction, or any part thereof, which is taken into account in determining the net operating loss or capital loss carry-over of the estate or trust for its last taxable year shall not be taken into account again in determining excess deductions on termination of the trust or estate within the meaning of subpart 1 and Minnesota Statutes, section 290.23, subdivision 3, clause (2).

**Statutory Authority:** *MS s 290.52*

### **8023.0300 MEANING OF BENEFICIARIES SUCCEEDING TO THE PROPERTY OF THE ESTATE OR TRUST.**

**Subpart 1. In general.** The phrase "beneficiaries succeeding to the property of the estate or trust" means those beneficiaries upon termination of the estate or trust who bear the burden of any loss for which a carry-over is allowed, or of any excess of deductions over gross income for which a deduction is allowed, under Minnesota Statutes, section 290.23, subdivision 3.

**Subp. 2. As to intestate estate.** With reference to an intestate estate, the phrase means the heirs and next of kin to whom the estate is distributed, or if the estate is insolvent, to whom it would have been distributed if it had not been insolvent. If a decedent's spouse is entitled to a specified dollar amount of property before any distribution to other heirs and next of kin, and if the estate is less than that amount, the spouse is the beneficiary succeeding to the property of the estate or trust to the extent of the deficiency in amount.

**Subp. 3. As to testate estate.** In the case of a testate estate, the phrase normally means the residuary beneficiaries (including a residuary trust), and not specific legatees or devisees, pecuniary legatees, or other nonresiduary beneficiaries. However, the phrase does not include the recipient of a specific sum of money even though it is payable out of the residue, except to the extent that it is not payable in full. On the other hand, the phrase includes a beneficiary (including a trust) who is not strictly a residuary beneficiary but whose devise or bequest is determined by the value of the decedent's estate as reduced by the loss or deductions in question. Thus the phrase includes:

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A. a beneficiary of a fraction of a decedent's net estate after payment of debts, expenses, etc.;

B. a nonresiduary legatee or devisee, to the extent of any deficiency in his legacy or devise resulting from the insufficiency of the estate to satisfy it in full; and

C. a surviving spouse receiving a fractional share of an estate in fee under a statutory right of election, to the extent that the loss or deductions are taken into account in determining the share. However, the phrase does not include a recipient of dower or curtesy, or any income beneficiary of the estate or trust from which the loss or excess deduction is carried over.

Subp. 4. **As to trust beneficiary.** The principles discussed in subpart 3 are equally applicable to trust beneficiaries. A remainderman who receives all or fractional share of the property of a trust as a result of the final termination of the trust is a beneficiary succeeding to the property of the trust. For example, if property is transferred to pay the income to A for life and then to pay \$10,000 to B and distribute the balance of the trust corpus to C, C and not B is considered to be the succeeding beneficiary except to the extent that the trust corpus is insufficient to pay B \$10,000.

**Statutory Authority:** *MS s 290.52*

## **8023.0400 ALLOCATION.**

The carry-overs and excess deductions to which Minnesota Statutes, section 290.23, subdivision 3 applies are allocated among the beneficiaries succeeding to the property of an estate or trust (see parts 8023.0100 to 8023.0300) proportionately according to the share of each in the burden of the loss or deductions. A person who qualified as a beneficiary succeeding to the property of an estate or trust with respect to one amount and does not qualify with respect to another amount is a beneficiary succeeding to the property of the estate or trust as to the amount with respect to which he qualifies. The application of this part may be illustrated by the following example:

A decedent's will leaves \$100,000 to A, and the residue of his estate equally to B and C. His estate is sufficient to pay only \$90,000 to A, and nothing to B and C. There is an excess of deductions over gross income for the last taxable year of the estate or trust of \$5,000 and a capital loss carry-over of \$15,000 to both of which Minnesota Statutes, section 290.23, subdivision 3 applies. A is a beneficiary succeeding to the property of the estate to the extent of \$10,000, and since the total of the excess of deductions and the loss carry-over is \$20,000, A is entitled to the benefit of one-half of each item, and the remaining half is divided equally between B and C.

**Statutory Authority:** *MS s 290.52*

## **8023.0500 NET OPERATING LOSS DEDUCTION.**

The net operating loss deduction allowed by Minnesota Statutes, section 290.095 is available to estates and trusts generally, with the following exceptions and limitations:

A. In computing gross income and deductions for the purposes of Minnesota Statutes, section 290.095 a trust shall exclude that portion of the income and deductions attributable to the grantor or another person under Minnesota Statutes, sections 290.25, 290.27, and 290.28 relating to grantors and others treated as substantial owners.

B. An estate or trust shall not, for the purposes of Minnesota Statutes, section 290.095 avail itself of the deductions allowed by Minnesota Statutes, section 290.23, subdivision 2, paragraph (a) relating to charitable contributions deductions and Minnesota Statutes, section 290.23, subdivisions 6 and 8 relating to deductions for distributions.

**Statutory Authority:** *MS s 290.52*