

CHAPTER 291

INHERITANCES, DEVISES, BEQUESTS

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291.01 TAX IMPOSED. Subdivision 1. **Transfers.** A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state;

(2) When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death;

(3) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death; any transfer of the material part of the property of a deceased in the nature of a final disposition or distribution thereof, made within three years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death; but no such transfer made prior to such three year period shall be deemed or held to have been made in contemplation of death; and

(4) Nothing in this chapter shall be construed as imposing a tax upon any transfer, as defined in this chapter, of intangibles, however used or held, whether in trust or otherwise, by a person, or by reason of the death of a person, who was not a resident of this state at the time of his death.

Subd. 2. When imposed. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this chapter.

Subd. 3. Transfer. When any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this chapter, such appointment when made shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and when any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor,

in whole or in part, a transfer taxable under the provisions of this chapter shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Subd. 4. Jointly owned property. (1) 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.

(2) Every tax imposed upon property taxable under subdivision 4 shall be a lien upon the interest of the deceased joint tenant until paid, and the survivor or survivors shall be personally liable for such tax to the extent of the value of such property. Such lien shall be limited to a period of ten years from the date of recording a copy of the death record of the deceased joint tenants.

(3) The commissioner of taxation shall determine the inheritance tax, if any, under subdivision 4. When the tax is paid or if there is no tax, the commissioner of taxation shall make and deliver to the surviving joint tenant, his certificate to that effect, and the said certificate may be recorded as other instruments affecting the title to real estate.

Subd. 5. Life insurance policies. (1) The proceeds of all life or accident insurance policies taken out by decedent and payable on account of his death, receivable by named beneficiaries, shall be subject to the tax herein imposed, as follows:

(a) The proceeds of all such policies hereafter issued payable to named beneficiaries.

(b) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to change the beneficiary or under which he has cash surrender right.

(2) Such proceeds shall be deemed a transfer within the meaning of that term as used in this chapter and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto.

(3) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit, or death benefit insurance business which shall pay to any person, association, or corporation any insurance or death benefit in excess of \$1,000 or shall transfer any unpaid balance of, or any interest in, any annuity contract or deposit, upon the death of a resident of this state, shall give notice of such payment or transfer to the commissioner of taxation within ten days from the date thereof. Such notice shall be given on the forms prescribed by the commissioner of taxation, and such notice shall set forth such information as the commissioner of taxation shall prescribe.

(4) The commissioner of taxation shall determine the tax, if any, under subdivision 5.

[1905 c 288 s 1; 1911 c 372 s 1; 1935 c 334 s 1; Ex1937 c 50 s 3; 1939 c 338 s 1; 1939 c 431 art 6 s 6; 1941 c 470 s 1; 1943 c 504 s 1, 2; 1949 c 735 s 1; 1953 c 629 s 1; 1955 c 552 s 1] (2292)

291.02 RATE OF TAX. The tax so imposed shall be computed upon the true and full value in money of such property at the rates hereinafter prescribed and only upon the excess of the exemptions hereinafter granted.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 1; 1927 c 205 s 1, 2; 1939 c 338 s 2; 1943 c 504 s 3] (2293)

19XC7024 01 **291.03 PRIMARY RATES.** When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption hereinafter specified and shall not exceed in value \$15,000, the tax hereby imposed shall be:

(1) Where the person entitled to any beneficial interest in such property shall be the wife, or lineal issue, or any child adopted as such in conformity with the laws of this state, or any lineal issue of such adopted child, at the rate of one per cent of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the husband, lineal ancestor of the decedent or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, such relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter, or any lineal issue of such mutually acknowledged child, at the rate of one and one-half percent of the clear value of such interest in such property.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or the husband of a daughter of the decedent, at the rate of three per cent of the clear value of such interest in such property.

(4) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of the father or mother or a descendant of a brother or sister of the father or mother of the decedent, at the rate of four percent of the clear value of such interest in such property.

(5) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, except as hereinafter provided, at the rate of five percent of the clear value of such interest in such property.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2a; 1927 c 205 s 1, 2; 1939 c 338 s 2a; 1943 c 504 s 3] (2293)

19XC7024 01 **291.04 EXCESS RATES.** The foregoing rates in section 291.03 are for convenience termed the primary rates.

When the amount of the clear value of such property or interest exceeds \$15,000, the rates of tax upon such excess shall be as follows:

(1) Upon all in excess of \$15,000 and up to \$30,000, two times the primary rates.
(2) Upon all in excess of \$30,000 and up to \$50,000, three times the primary rates.

(3) Upon all in excess of \$50,000 and up to \$100,000, three and one-half times the primary rates.

(4) Upon all in excess of \$100,000 and up to \$200,000, four times the primary rates.

(5) Upon all in excess of \$200,000 and up to \$300,000, five times the primary rates.

(6) Upon all in excess of \$300,000 and up to \$400,000, six times the primary rates.

(7) Upon all in excess of \$400,000 and up to \$500,000, seven times the primary rates.

(8) Upon all in excess of \$500,000 and up to \$600,000, eight times the primary rates.

(9) Upon all in excess of \$600,000 and up to \$700,000, nine times the primary rates.

(10) Upon all in excess of \$700,000 and up to \$900,000, ten times the primary rates.

(11) Upon all in excess of \$900,000 and up to \$1,100,000, eleven times the primary rates.

(12) Upon all in excess of \$1,100,000, twelve times the primary rates.

Provided, the tax imposed hereby shall in no case exceed 35 percent of the true and full value of the property transferred in excess of the applicable specific exemptions.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2b; 1939 c 338 s 2b; 1943 c 504 s 3] (2293)

291.05 EXEMPTIONS. The following exemptions from the tax are hereby allowed:

(1) any devise, bequest, gift, or transfer to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively, and any devise, bequest, gift, or transfer to or for the use of any corporation, fund, foundation, trust, or association operated within this state for religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encouragement of art and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or individual, and any bequest or transfer to a trustee or trustees exclusively for such purposes, shall be exempt. Any devise, bequest, gift, or transfer to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, education, or public cemetery purposes exclusively, including the encouragement of art, and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or any individual, and any bequest or transfer to a trustee or trustees exclusively for such purposes, shall be exempt, if, at the date of the decedent's death, the laws of the state under the laws of which the transferee was organized or existing, either (1) did not impose a death tax of any character, in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contained a reciprocal provision under which transfers to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of another state were exempted from death taxes of every character if such other state allowed a similar exemption to a similar corporation, fund, foundation, trust, or association, organized under the laws of such state.

(2) The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or to any minor or dependent child of the decedent, or to any minor or dependent legally adopted child of the decedent, shall be exempt to the extent of \$30,000 of the appraised value thereof.

(3) Proceeds of any insurance policy issued by the United States and generally known as war risk insurance, United States government life insurance or national service life insurance payable upon the death of any person dying on or after June 24, 1950 shall be exempt.

(4) The proceeds of all life or accident insurance policies taxable under the provisions of section 291.01, subdivision 5, together with the proceeds of payments from the United States Railroad Retirement Fund, shall be exempt in the following amounts:

(a) Such proceeds of the clear value of \$35,000 transferred to a spouse of the decedent.

(b) Such proceeds of the clear value of \$10,000 transferred to each minor or dependent child of the decedent.

(c) Such proceeds of the clear value of \$10,000 transferred to each minor or dependent legally adopted child of the decedent.

(d) Such proceeds of the clear value of \$5,000 to each dependent parent of the decedent.

(e) Such proceeds of the clear value of \$10,000 transferred to each adult child or lineal issue of the decedent.

(f) Such proceeds of the clear value of \$1,000 transferred to any beneficiary other than spouse, minor or dependent child, minor or dependent legally adopted child, adult child, lineal issue and dependent father and mother.

The receipt of any such insurance proceeds or proceeds from the United States Railroad Retirement Fund, upon which no tax is imposed under the provisions of this paragraph shall not affect the right of any beneficiary to any exemption otherwise provided in this chapter.

(5) Property of the clear value of \$10,000 transferred to the widow and to each child of the decedent or any legally adopted child who is a minor or dependent at the death of the decedent, shall be exempt.

(6) Property of the clear value of \$5,000 transferred to husband of the decedent, an adult child or other lineal descendant of the decedent, any adult adopted child, or any child to whom the decedent, for not less than ten years prior to his death, stood in the mutually acknowledged relation of a parent; provided, such relationship began at or before the child's 15th birthday, and was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, shall be exempt.

(7) Property of the clear value of \$3,000 transferred to each of the lineal ancestors of the decedent shall be exempt.

(8) Property of the clear value of \$1,000 transferred to each of the persons described in section 291.03, clause (3), shall be exempt.

(9) Property of the clear value of \$250 transferred to each of the persons described in section 291.03, clause (4), shall be exempt.

(10) Property of the clear value of \$100 transferred to each of the persons and corporations described in section 291.03, clause (5), shall be exempt.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1927 c 290 s 1; 1931 c 208; Ex1937 c 50 s 2; 1939 c 338 s 2c; 1943 c 504 s 3; 1949 c 735 s 2; 1951 c 180 s 1] (2293)

291.06 LIMITED EXEMPTIONS. Where property is transferred to any person described in section 291.03, clauses (1) and (2), which can be identified as having been transferred to the decedent from a person who died within five years prior to the death of the decedent, and such transfer to the decedent was within the class of transfer described in said section 291.03, clauses (1) and (2), such property shall be exempt to the extent of the value thereof at the date of death of the prior decedent but not to exceed the value at the date of death of the second decedent. Provided, (1) no such exemption shall be allowed unless an inheritance tax was determined and paid to this state on the transfer thereof from the said prior decedent; (2) the exemption shall be limited to the value of property which is in excess of the amount of the exemption provided in section 291.05 allowed on the transfer to the decedent; (3) unless such previously transferred property is specifically devised or bequeathed, the exempt property for purposes of taxation shall be considered as belonging to the residue of the estate; (4) property exempt under this section shall not be included in computing the rate applicable to other transfers to the beneficiary receiving such exempt property.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1939 c 338 s 2d; 1943 c 504 s 3] (2293)

291.07 EXPENSES OF ADMINISTRATION. Reasonable expenses of administration, funeral expenses, expenses of last sickness, claims against the decedent duly allowed as such, family maintenance to the extent provided by section 291.10 and allowances to the surviving spouse, Federal estate taxes and taxes which have accrued or are a lien on property in the estate at the date of death, shall be allowed as deductions, in the amount allowed by the probate court having jurisdiction, before computing the tax.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1939 c 338 s 2e; 1943 c 504 s 3] (2293)

291.08 APPORTIONMENT OF EXPENSE. Where any tax is due on the transfer of any property or interest therein owned by a nonresident, the exemptions provided in section 291.05 shall be allowed as in the case of residents. No deductions except those actually incurred within this state shall be allowed.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1939 c 338 s 2f; 1943 c 504 s 3] (2293)

291.09 DETERMINATION OF TAX. Except as otherwise herein provided, the tax upon any transfers by a non-resident of real property within this state or personal property having a situs within this state shall be determined by the probate court in all cases where the estate is probated in this state. In all cases where the tax is not determined by the probate court it shall be determined by the commissioner of taxation.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1939 c 338 s 2g; 1943 c 504 s 3] (2293)

291.10 MAINTENANCE OF FAMILY IN INHERITANCE TAX CASES. In determining the value of any estate subject to an inheritance tax, the amount deducted for the maintenance of the family shall not be greater than the amount allowed by the probate court for one year, and which is reasonably required or actually expended for their support during the settlement of the estate, not exceeding in any event the sum of \$5,000.

[1935 c 335 s 1] (2293-1)

291.11 TIME EFFECTIVE. Subdivision 1. **Upon death.** 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 18 months from such death, except as otherwise provided in this chapter.

Subd. 2. **Value of estates dependent upon any life, how determined.** The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the rule, method, and standard of mortality and value employed by the commissioner of insurance in ascertaining the value of policies of life insurance and annuities for the determination of liabilities of life insurance companies, except: (a) for every future or limited estate, income, interest, or annuity, the value of which is not based upon an assumed or fixed rate of interest, the rate of interest and the discount rate, for making such computation, shall be four percent per annum; (b) the value of an annuity contract issued by a company regularly engaged in the sale of contracts of that character shall be determined by the amount at which comparable contracts were sold by that company at the date of the decedent's death.

Subd. 3. **Transfer made in trust, present value.** When any transfer is made in trust for any person or persons or corporation or corporations, and the right of the beneficiaries of the trust to receive the property embraced in the trust is susceptible of present valuation, then, and in such case, the tax thereon shall be paid at the same time, in the same manner, and in like amount, that would be the case if the beneficiaries of such trust received the same directly from the decedent or the persons from whom the property is transferred.

Subd. 4. **Life estate divested, how taxed.** Where an estate for life or for years can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

Subd. 5. **When tax paid; refund.** When property is transferred in trust or otherwise, and the rights, interest, or estates of the transferee are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon the transfer at the highest rate which, on the happening of any of the contingencies or conditions, would be possible under the provisions of this chapter, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, that on the happening of any contingency whereby the property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this chapter, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which the person or corporation should pay under the provisions of this chapter, with interest thereon at the rate of three percent per annum from the time of payment. Such return of overpayment shall be made in the manner provided by section 291.32.

Subd. 6. **Contingent encumbrance.** In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon the happening of which the estate or property, or some part thereof or interest therein might be abridged, defeated, or diminished; provided, that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgement, defeat, or diminution of the estate or property, or interest therein, as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section 291.32.

Subd. 7. **Transfer subject to a charge.** Where any property shall be transferred subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate, or interest, shall be deemed a transfer of property taxable under the provisions of this chapter in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interest is derived.

Subd. 8. **Tax becomes payable when beneficiary takes possession.** The tax on any devise, bequest, legacy, gift, or transfer limited, conditioned, dependent, or determinable upon the happening of any contingency or future event, by reason of which the full and true value thereof cannot be ascertained as provided for by the provisions of this chapter at or before the time when the taxes become due and payable, as hereinbefore provided, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof.

Subd. 9. **Appraisal of estates in expectancy.** Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which the estates in expectancy may have been limited.

[1905 c 288 s 3; 1911 c 209 s 1; 1939 c 338 s 3; 1943 c 504 s 4, 5; 1953 c 659 s 1] (2294)

291.12 COLLECTION OF TAX. Subdivision 1. Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to the tax thereon as imposed by this chapter, shall deduct the tax therefrom, before paying or distributing the same. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy, or gift upon the appraised value thereof, from the person entitled thereto. He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under this chapter, to any person until he shall have collected the tax thereon. All taxes so collected, together with interest thereon, if any, shall be paid to the county treasurer as herein provided, and no administrator, executor or trustee shall be entitled to a discharge of his duties and liabilities until such tax is paid.

Subd. 2. Every representative shall, at the time of filing the inventory as required by law, or, if no inventory is filed, the petitioner shall at the time of filing the petition for decree of descent, petition for summary distribution, or other document initiating the proceedings, file with the probate court a return under oath, in such form as may be prescribed by the commissioner of taxation, of all **property** within his knowledge and the value thereof at the date of the decedent's death, (a) which the decedent has at any time transferred and which is or may be subject to an inheritance tax, (b) which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof.

Subd. 3. In all cases where a federal estate tax return is filed, a true copy thereof shall be filed with the commissioner of taxation at the time of filing the original.

[1905 c 288 s 4; 1939 c 338 s 4; 1943 c 504 s 6; 1953 c 628 s 1] (2295)

291.13 TAXES TO BE PAID TO COUNTY OR STATE TREASURER. Subdivision 1. The tax imposed by this chapter upon inheritances, devises, bequests, legacies, gifts and other transfers shall be paid to the treasurer of the county in which the probate court having jurisdiction is located or, where there are no probate proceedings in this state to the commissioner of taxation.

Subd. 2. If the tax is paid to the county treasurer he shall give the executor, administrator, trustee or person paying such tax, duplicate receipts therefor, one of which shall be immediately transmitted to the commissioner of taxation, whose duty it shall be to verify the correctness of the amount so paid and thereupon to

countersign the same and transmit it to the probate court having jurisdiction and notify the representative or his attorney of its transmittal whereupon it shall be a proper voucher in the settlement of the accounts of the executor, administrator or trustee, or other person paying such tax. The county treasurer, upon receiving written notice from the commissioner of taxation that the receipt has been countersigned and delivered, shall transmit the amount so paid to the commissioner of taxation.

Subd. 3. If the tax is paid directly to the commissioner of taxation he shall, after verifying the correctness of the amount so paid, issue his receipt to the executor, administrator or trustee, or other person paying such tax, and it shall be a proper voucher in the settlement of his accounts.

Subd. 4. No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in the settlement of which a tax may become due under the provisions of this chapter, until he shall produce a receipt, countersigned or issued by the commissioner of taxation, or a certified copy of the same.

Subd. 5. All taxes paid under the provisions of this chapter shall be deposited by the commissioner of taxation in the state treasury, and shall belong to and be a part of the revenue fund of the state.

[1905 c 288 s 5; 1939 c 338 s 5; 1943 c 593 s 1; 1953 c 630 s 1] (2296)

291.14 INHERITANCE TAX A LIEN UPON PROPERTY. Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid, and the person to whom such property is transferred and the administrators, executors, and trustees of every estate embracing such property shall be personally liable for such tax, until its payment, to the extent of the value of such property. No such lien shall be enforced against real property, in any case, unless the state shall assert the same by filing a statement of its lien in the office of the register of deeds in the county wherein such real estate may be situated, within ten years after the date of any final decree of distribution which may be entered in the estate involved.

[1905 c 288 s 6; 1933 c 118 s 1] (2297)

59C 682.01 **291.15 INTEREST.** If such tax is not paid within 18 months from the accruing thereof, interest shall be charged and collected thereon at the rate of six percent per annum from the time the tax is due. All payments shall be applied first on interest and then upon principal.

[1905 c 288 s 7; 1943 c 504 s 7; 1953 c 659 s 2] (2298)

291.16 POWER OF SALE. Every executor, administrator, or trustee shall have full power to sell so much of the property embraced in any inheritance, devise, bequest, or legacy as will enable him to pay the tax imposed by this chapter, in the same manner as he might be entitled by law to do for the payment of the debts of a testator or intestate.

[1905 c. 288 s. 8] (2299)

291.17 LEGACY CHARGED ON PROPERTY. If any bequest or legacy shall be charged upon or payable out of any property, the heir or devisee shall deduct such tax therefrom and pay such tax to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such property until paid; and the payment thereof shall be enforced by the executor, administrator, or trustee in the same manner that payment of the bequest or legacy might be enforced, or by the county attorney under section 291.27. If any bequest or legacy shall be given in money to any person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount; but, if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires, of the sum to be paid into his hands by such legatee or beneficiary and for such further order relative thereto as the case may require.

[1905 c. 288 s. 9] (2300)

59C 157.01 **291.18 TAX ERRONEOUSLY PAID; REFUNDMENT.** When any tax imposed by this chapter shall have been paid or collected, other than by the methods provided in section 291.27 or in section 271.06, in excess of the amount legally due, the person or corporation paying the same shall be entitled to a refundment of the amount of such taxes overpaid, together with interest thereon at the rate of six percent per annum from the date of payment, in the manner provided by section 291.32; provided that all applications for such refundment shall be made within two

years from the date of the order of the commissioner of taxation or the probate court determining and assessing such tax or within two years from the date of the payment of the tax, whichever date is later.

[1905 c 288 s 10; 1943 c 593 s 2; 1947 c 556 s 1; 1951 c 180 s 2] (2301)

291.19 PERSONAL PROPERTY OF NONRESIDENT DECEDENT, TRANSFER. Subdivision 1. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligation in this state, standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the commissioner of taxation on the transfer thereof, and no such assignment or transfer shall be valid until such tax is paid.

Subd. 2. If any nonresident of this state dies owning personal property in this state, such property may be transferred or assigned by the personal representative of, or trustee for the decedent, only after such representative or trustee shall have procured a certificate from the commissioner of taxation consenting to the transfer of such property. Such consent shall be issued by the commissioner of taxation only in case there is no tax due hereunder; or in case there is a tax, when the same shall have been paid.

Subd. 3. Any personal representative, trustee, heir or legatee of a nonresident decedent desiring to transfer property having its situs in this state may make application to the commissioner of taxation for the determination of whether there is any tax due to the state on account of the transfer of the decedent's property and such applicant shall furnish to the commissioner of taxation therewith an affidavit setting forth a description of all property owned by the decedent at the time of his death and having its situs in the state of Minnesota, the value of such property at the time of said decedent's death; also when required by the commissioner of taxation, a description of and statements of the true value of all the property owned by the decedent at the time of his death and having its situs outside the state of Minnesota, and also a schedule or statement of the valid claims against the estate of the decedent, including the expenses of his last sickness and funeral and the expenses of administering his estate, to the extent that such claims were incurred within this state. Such person shall also, on request of the commissioner of taxation, furnish to the latter a certified copy of the last will of the decedent in case he died testate, or an affidavit setting forth the names, ages and residences of the heirs at law of the decedent in case he died intestate and the proportion of the entire estate of such decedent inherited by each of said persons, and the relation, if any, with each legatee, devisee, heir, or transferee sustained to the decedent or person from whom the transfer was made. Such affidavits shall be subscribed and sworn to by the personal representative of the decedent or some other person having knowledge of the facts therein set forth.

Subd. 4. The statements in any such affidavits as to value or otherwise shall not be binding on the commissioner of taxation in case he believes the same to be untrue. From the information so furnished to him and such other information as he may have with reference thereto, the commissioner of taxation shall, with reasonable expedition, determine the amount of tax, if any, due the state under the provisions of this chapter and notify the person making the application of the amount thereof claimed to be due. On payment of the tax so determined to be due or in case there is no tax due to the state, the commissioner of taxation shall issue a consent to the transfer of the property so owned by the decedent.

Subds. 5, 6, 7. [Repealed, 1947 c 556 s 3]

[1905 c 288 s 11; 1911 c 209 s 2; 1913 c 565 s 1; 1935 c-128 s 1; 1943 c 593 s 3] (2302)

291.20 SAFETY DEPOSIT COMPANIES NOT TO TRANSFER FUNDS. Subdivision 1. No person holding securities of assets belonging at the time of death of a decedent to him or to him and another or others as joint tenants, or having on deposit funds in excess of \$1,000 to the credit of a decedent and another or others as joint tenants, or to the credit of the decedent as trustee for another or others, or renting a safe deposit box or other place of safekeeping to a decedent, individually or as joint tenant or tenant in common, shall deliver or transfer the same to any person, or permit any person to have access thereto, unless notice of the time and place of such intended transfer or access be served upon the county treasurer, personally or by representative, in which event the county treasurer, personally or by representative, may examine said securities, assets, funds or contents

of such safe deposit box, at the time of such delivery, transfer or access. If, upon such examination the county treasurer or his representative shall for any cause deem it advisable that such securities, assets or funds should not be immediately delivered or transferred, or access to said safe deposit box or other place of safekeeping should not immediately be granted, he may forthwith notify in writing such person to defer delivery or transfer or access, as the case may be, for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the person notified to defer such delivery, transfer or access until the time stated in such notice or until prior revocation thereof. Failure to serve the notice first above mentioned, or to allow such examination, or to defer delivery or transfer of such securities, assets, or funds, or to refuse access to such safe deposit box or other place of safekeeping for the time stated in the second of such notices, shall render such person liable to the payment of the tax due, not exceeding \$1,000, upon the transfer of said securities, assets, or funds, or upon securities, assets, or moneys in such safe deposit box or other place of safekeeping, pursuant to the provisions of this act; provided, however, that nothing herein contained shall subject such person to liability for the payment of any such tax unless such person had knowledge of the death of the decedent prior to such delivery or transfer of such securities, assets, or funds, or entry to said safe deposit box or other place of safekeeping. Nothing herein contained shall apply with respect to negotiable instruments on which such person is obligated, nor to the delivery or transfer of securities or assets standing in the name of decedent alone, except contents of safe deposit boxes, to his duly qualified executor, administrator or personal representative. The word "person" as used herein shall include individual persons, safe deposit companies, banks, trust companies, savings and loan associations, partnerships and all other organizations.

Any person seeking access to any safe deposit box upon the death of any person who at the time of his death was a tenant thereof either individually or as joint tenant or tenant in common, or seeking to withdraw securities, assets or funds belonging to the decedent or which decedent had the right to withdraw, shall notify the person renting such safe deposit box or holding such securities, assets or funds of the decedent's death. Any person who wilfully fails to give the notice of the death of the decedent required by this paragraph with intent to evade taxes due hereunder shall be guilty of a misdemeanor. It shall be a complete defense to any prosecution under the provisions of this subdivision that no inheritance tax was due from the decedent's estate.

Subd. 2. The county treasurer shall within ten days deliver a written report of the property examined by him to the probate court and the commissioner of taxation.

Subd. 3. 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 taxation. 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.

[1905 c. 288 s. 12; 1939 c. 338 s. 6; 1943 c. 504 s. 8] (2303)

291.21 COMMISSIONER OF TAXATION TO RECEIVE LIST OF PROPERTY.

Subdivision 1. The county treasurers of the several counties, and the commissioner of taxation, shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

Subd. 2. In all estates where it appears from the inventory, appraisal and return that an inheritance tax may be imposed, the representative shall, upon the filing thereof, under direction of the court, deliver a copy of each, and of the petition, and will, if any, to the commissioner of taxation, and upon filing the final account shall deliver a copy thereof to the commissioner of taxation.

Subd. 3. The values shown by such inventory, appraisal and return shall be deemed conclusive and final in the computation of inheritance taxes unless within 90 days after the filing of copies thereof with the commissioner of taxation as required by subdivision 2 of this section, the representative of the estate, or the commissioner of taxation, or any party in interest, shall file objections thereto with the probate court and, if he is not the party objecting, with the commissioner of

taxation, as to any specific item or items therein. If such objections are filed the probate court shall fix the time and place for the determination of the tax and shall give 30 days' written notice thereof to the commissioner of taxation and to the representative of the estate and to any party who has filed objections, and upon such hearing shall determine the values of the items objected to and determine the tax. If no objections are filed the court shall make its order determining the tax on the values set forth in the appraisal and the return as herein provided.

Subd. 4. Upon making and filing the order determining the tax a copy thereof shall be served on the county treasurer, the commissioner of taxation and the representatives of the estate. Within 30 days thereafter the commissioner of taxation or any other interested party may file written objections thereto with the probate court, and apply for a reassessment and redetermination of the tax. The court shall thereupon set a time for hearing thereof, and give at least ten days' notice to the commissioner of taxation, the county treasurer and other interested parties. Upon such hearing the court may set aside or amend its order, or any part thereof. Notice of the order made after such hearing shall be served in the same manner as the original order.

[1905 c. 288 s. 13; 1911 c. 209 s. 3; 1939 c. 338 s. 7; 1939 c. 431 art. 6 s. 6; 1943 c. 504 s. 9; 1943 c. 593 s. 4] (2304)

291.22 APPRAISERS. The probate court may, in any matter mentioned in section 291.21, either upon its own motion or upon the application of any interested party, including county treasurers and the commissioner of taxation, and as often as and when occasion requires, appoint one or more impartial and disinterested persons as appraisers to appraise the full and true value of the property embraced in any inheritance, devise, bequest, or legacy, subject to the payment of any tax imposed by this chapter.

[1905 c. 288 s. 14; 1911 c. 209 s. 4] (2305)

291.23 INHERITANCES, HOW APPRAISED. Every inheritance, devise, bequest, legacy, transfer, or gift upon which a tax is imposed under this chapter shall be appraised at its full and true value immediately upon the death of decedent, or as soon thereafter as may be practicable; provided, that when such devise, bequest, legacy, transfer, or gift shall be of such a nature that its full and true value cannot be ascertained, as herein provided, at such time, it shall be appraised in like manner at the time such value first becomes ascertainable.

[1905 c. 288 s. 15; 1911 c. 209 s. 5] (2306)

291.24 NOTICE OF APPRAISAL; POWERS AND DUTIES OF APPRAISERS. The appraisers appointed under the provisions of this chapter shall forthwith give notice, by mail, to all persons known to have a claim or interest in the inheritance, devise, bequest, legacy, or gift to be appraised, including the county treasurer, commissioner of taxation, and such persons as the probate court may by order direct, of the time and place when they will make such appraisal. They shall at such time and place appraise the same at its full and true value, as herein prescribed, and for that purpose the probate court appointing the appraisers is authorized and empowered to issue subpoenas and compel the attendance of witnesses before such appraisers at the place fixed by the appraisers as the place where they will meet to hear such testimony and make such appraisal. The appraisers may administer oaths or affirmations to such witnesses and require them to testify concerning any and all property owned by the decedent and the true value thereof and any disposition thereof which may have been made by the decedent during his lifetime or otherwise. The appraisers shall make a report in writing setting forth their appraisal of the property embraced in each legacy, inheritance, devise, or transfer, including any transfer made in contemplation of death, with the testimony of the witnesses examined and such other facts in relation to the property and its appraisal as may be requested by the commissioner of taxation, or directed by the order of the probate court. Such report shall be in writing and one copy thereof shall be filed in the probate court, and the others shall be mailed to the commissioner of taxation at his office in St. Paul, Minnesota.

Every appraiser shall be entitled to compensation at the rate of \$3 per day, and in extraordinary cases such additional sum per day, not exceeding \$7 altogether, as may be allowed by the probate judge, for each day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and such witnesses and the officer or person serving any such subpoena shall be

entitled to the same fees as are allowed witnesses or sheriffs for similar services in courts of record. The compensation and fees claimed by any person for services performed under this chapter shall be approved by the judge of probate, who shall certify the amount thereof to the state auditor, who shall examine the same; and, if found correct, he shall draw his warrant upon the state treasurer for the amount thereof in favor of the person entitled thereto.

Such warrants shall be paid out of the moneys appropriated for the payment of the expenses of inheritance tax collections.

[1905 c. 288 s. 16; 1911 c. 209 s. 6] (2307)

291.25 REPORT; POWERS OF COURT. The report of the appraisers shall be filed with the probate court, and from such report and other proof relating to any such estate before the probate court the court shall forthwith, as of course, determine the full and true value of all such estate and the amount of tax to which the same is liable; or the probate court may so determine the full and true value of all such estates and the amount of tax to which the same are liable without appointing appraisers.

[1905 c. 288 s. 17] (2308)

291.26 PROBATE COURT, REPORTS. The probate court, upon serving a copy of the order determining the tax, as herein provided, shall deliver to the commissioner of taxation a full report showing such other matters in connection therewith as may be required by the commissioner of taxation, upon such forms as may be furnished by him to the court or as may be particularly requested. The county board may allow the county treasurer and the judge of probate to employ such additional clerical assistance for all or part of the time as may be necessary to properly perform the additional duties imposed upon such officers by the inheritance tax law.

[1905 c. 288 s. 18; 1911 c. 209 s. 7; 1913 c. 574 s. 1; 1939 c. 338 s. 9; 1939 c. 431 art. 6 s. 6; 1943 c. 593 s. 5] (2309)

291.27 UNPAID TAX; OMITTED PROPERTY. If any tax is due and unpaid under the provisions of this chapter, the representative of the estate, the county attorney of the county in which an estate is probated, or the attorney general may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this chapter has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, shall conform, as near as may be, to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this chapter in the probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected by action in a court of general jurisdiction by the representative of any estate, or by action, in the name of the state, brought by the attorney general or the county attorney.

Any property which for any cause is omitted from an appraisal, inventory, or inheritance tax return, so that its value is not taken into consideration in the determination of the inheritance taxes, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal, inventory, inheritance tax return and determination, except that any representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance tax, such taxes thereon may be determined and recovered in a civil action brought by the attorney general, in the name of the state, in any court of general jurisdiction, or may be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered.

[1905 c. 288 s. 20; 1913 c. 574 s. 3; 1939 c. 388 s. 10; 1939 c. 431 art. 6 s. 6; 1947 c. 519 s. 1] (2311)

291.28 [Unnecessary]

291.29 RECORDS; REPORTS. Subdivision 1. Each probate court shall keep a book which shall be a public record, and in which shall be entered by the judge of said court the name of every decedent upon whose estate an application has been made for the issue of letters of administration, or letters testamentary or ancillary letters, the date and place of death of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the estimated value of the property of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the names and places of residence of the legatees, devisees, and other beneficiaries in any will of any such decedent, the amount of each legacy, and the estimated value of any property devised therein and to whom devised.

These entries shall be made from data contained in the papers filed on such application or in any proceeding relating to the estate of the decedent.

Subd. 2. The judge of probate shall also enter in such book the amount of the property of any such decedent, as shown by the inventory thereof, when made and filed in his office, and the returns made by any appraisers appointed by him under this act, and the value of all inheritances, devises, bequests, legacies and gifts inherited from such decedent, or given by such decedent in his will or otherwise as fixed by the probate court, and the tax assessed thereon, and the amounts of any receipts for payment thereof filed with him.

Subd. 3. The commissioner of taxation shall also furnish forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book.

Subd. 4. Each judge of probate, on determining a tax, shall immediately make a report to the commissioner of taxation upon the forms furnished by the commissioner of taxation containing all of the data and matters required to be entered in such book.

159 c. 44 s. 1 Subd. 5. The register of deeds of each county shall, on the first day of January and July of each year, make reports in duplicate to the auditor of state and attorney general, containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor with the name and place of residence of the vendor or vendee, and the description of the property transferred, as shown by such instrument. Such county official shall also furnish to either of said state officials, upon request, all information specifically requested as to any instruments of record in his office.

[1905 c 288 s 21; 1913 c 565 s 2; 1943 c 504 s 10; 1953 c 626 s 1] (2312)

291.30 WHEN ESTATE OF NONRESIDENT NOT PROBATED. The commissioner of taxation, by and with the written consent and approval of the attorney general, in case of a decedent whose estate has not been probated in this state, and by and with the written consent and approval of the probate judge in the case of a decedent whose estate is probated in this state, is hereby authorized and empowered to enter into an agreement with the owners of any property or the representatives of any estate or trust in which remainders or expectant estates are of such a nature or so disposed and circumstanced that the taxes are not presently payable or where the interests of the legatees, devisees, or other beneficiaries are or were not ascertainable under the provisions of this chapter, at the time fixed for the appraisal and determination of the tax on estates and interests transferred in fee, and to thereby compound the tax upon such transfers upon such terms as are deemed equitable and expedient; to grant a discharge to such owners or representatives on account thereof upon payment of the taxes provided for in such composition shall be conclusive in favor of such owners or representatives as against the interest of any such legatee, devisee, or other beneficiary as may possess either present rights of enjoyment, or fixed, absolute or indefeasible, rights of future enjoyment or as would possess such rights in the event of the immediate termination of any particular estate, unless he consent thereto either personally or by duly authorized attorney, when competent, or by guardian. Composition agreements made, effected and entered into under the provisions of this section shall be executed in triplicate, and one copy thereof filed in the probate court of the county in which the tax is to be paid, one copy in the office of the commissioner of taxation and one copy shall be delivered to the persons paying the tax thereunder.

The commissioner of taxation shall not consent to the assignment or delivery of any property embraced in any legacy, devise, or transfer from a non-resident decedent to a nonresident trustee thereof under the provisions of Minnesota Statutes 1941, Section 291.19, where the property embraced in such legacy, devise, or transfer is so circumstanced and disposed of that the tax thereon cannot be presently ascertained, but is so circumstanced and disposed of as to authorize him to enter into a composition agreement with reference to the tax on any estate, or interest therein, as herein provided, until the tax on the transfer of any such estate or interest shall have been compounded and the tax paid, as hereinbefore provided for; or, in lieu thereof, the trustee or other person to whom the possession of such property is delivered shall have made, executed and delivered to the commissioner of taxation a bond to the state of Minnesota in an amount equal to the amount of tax which in any contingency may become due and owing to the state on account of the transfer of such property, such bond to be approved by the commissioner of taxation and conditioned for the payment to the state of Minnesota of any tax which may accrue to the state under this act on the subsequent transfer or delivery of the possession of such property to any person beneficially entitled thereto. The provisions of Minnesota Statutes 1941, Sections 574.01, 574.12, and 574.15, shall apply to the execution of said bond and the qualification of the surety or sureties thereon.

No property having its situs in this state, embraced in any legacy or devise bequeathed or devised to a nonresident trustee and circumstanced or disposed of as last hereinbefore described, shall be decreed and distributed by any court of this state to such nonresident trustee until he shall have compounded and paid the tax as provided for in this section; or, in lieu thereof, given a bond to the state, as provided for in this section, with reference to transfers of property owned by non-resident decedents.

[1905 c. 288 s. 21-A; 1911 c. 209 s. 9; 1939 c. 431 art. 6 s. 6; 1943 c. 593 s. 6; 1945 c. 554 s. 1] (2313)

291.31 POWERS OF COMMISSIONER OF TAXATION. The commissioner of taxation is hereby authorized and empowered to issue a citation to any person who he may believe or has reason to believe has any knowledge or information concerning any property which he believes or has reason to believe has been transferred by any person and as to which there is or may be a tax due to the state under the provisions of this chapter, and by such citation require such person to appear before him at a time and place to be designated in such citation and testify, under oath, as to any fact or information within his knowledge touching the quantity, value, and description of any such property and its ownership and the disposition thereof which may have been made by any person, and to produce and submit to the inspection of the commissioner of taxation any books, records, accounts, or documents in the possession of or under the control of any person so cited. The commissioner of taxation shall also have power to inspect and examine the books, records, and accounts of any person, firm, or corporation, including the stock transfer books of any corporation, for the purpose of acquiring any information deemed necessary or desirable by him for the proper enforcement of this chapter and the collection of the full amount of the tax which may be due to the state hereunder. Any and all information acquired by the commissioner of taxation under and by virtue of the means and methods provided for by this section shall be deemed and held by him as confidential and shall not be disclosed by him except so far as the same may be necessary for the enforcement and collection of the inheritance tax provided for by this chapter.

Refusal of any person to attend before the commissioner of taxation in obedience to any such citation, or to testify, or produce any books, accounts, records, or documents in his possession or under his control, and submit the same to inspection of the commissioner of taxation when so required, may, upon application of the commissioner of taxation, be punished by any district court in the same manner as if the proceedings were pending in such court.

Witnesses so cited before the commissioner of taxation, and any sheriff or other officer serving such citation, shall receive the same fees as are allowed in civil actions; to be paid by the commissioner of taxation out of the funds appropriated for the enforcement of this chapter.

[1905 c. 288 s. 21-B; 1911 c. 209 s. 9; 1939 c. 431 art. 6 s. 6] (2314)

291.32 REFUNDING OF TAX. Subdivision 1. **Application; examination and order; refundment.** Whenever, under the provisions of section 291.11 or section

291.18, any person or corporation shall be entitled to a return of any part of a tax previously paid, he shall make application to the commissioner of taxation for a determination of the amount which he is entitled to have returned, and on such application shall furnish the commissioner of taxation with affidavits and other evidence showing the facts which entitled him to such return and the amount he is entitled to have returned. Upon the filing of such application, the commissioner of taxation shall examine the same and shall make a written order thereon denying or allowing the application in whole or in part and shall mail a copy of such order by registered mail to the applicant at the address stated on the application. If such application is allowed in whole or in part, the commissioner of taxation with the approval of the attorney general shall cause such refund to be paid in the manner provided by law.

It shall be the duty of the state treasurer to pay warrants therefor out of any funds in the state treasury not otherwise appropriated. The moneys necessary to pay such warrants are hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

Subd. 2. **Applicant may sue.** If the application is denied in whole or in part the taxpayer may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no order of refundment. Such action may be brought in the District Court of the district in which lies the county of his residence or principal place of business if an estate or trust, of the principal place of its administration, or in the district court for Ramsey County. Such action may be commenced after the expiration of six months after the application is filed if the commissioner has not taken final action thereon and shall be commenced within 18 months after the date of the order denying the application. If the commissioner has not acted within two years after the application is filed, it shall be considered denied.

[1905 c 288 s 21-C; 1911 c 209 s 9; 1939 c 431 art 6 s 6; 1943 c 593 s 7; 1947 c 556 s 2] (2315)

291.33 PAYMENTS TO COUNTIES. On or before the first of November in each year the commissioner of taxation shall determine the amount of inheritance tax and interest collected thereon which has been paid in to the commissioner of taxation by the county treasurers of the several counties of this state, from estates of residents during the preceding fiscal year ending June 30, and the amount returned under the provisions of Minnesota Statutes 1941, Section 291.32, as amended, which was originally paid to the county treasurer, and shall cause to be paid to each county from which any tax shall have been received during the fiscal year ending June 30 next preceding, 20 percent of the amount of the inheritance tax money and interest collected thereon so received from each such county respectively, less 20 percent of any such tax and interest thereon which has been returned under the provisions of Minnesota Statutes 1941, Section 291.32, as amended, and which was originally paid to the county treasurer of any such county. Said payments shall be transmitted to the county auditor of each county, to be placed to the credit of the county revenue fund. It shall be the duty of the state treasurer to pay warrants therefor out of any funds in the state treasury not otherwise appropriated. The moneys necessary to pay such warrants are hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

[1905 c 288 s 21-D; 1911 c 209 s 9; 1943 c 593 s 8; 1945 c 498 s 1; 1953 c 649 s 1] (2316)

291.34 ESTATE TAX. There shall be assessed by the probate court, in addition to the inheritance tax as now provided by sections 291.01 to 291.33, an estate tax upon all estates which are subject to taxation under the present federal revenue act of 1926. The tax is hereby imposed upon the transfer of the estate of every person who, at the time of his death, was a resident of this state. The amount of the tax shall be computed by the commissioner of taxation and his computation shall be sent to the probate court of the county of deceased's residence and shall be, by the probate court, assessed as an additional amount of inheritance tax, as fixed in accordance with the provisions of sections 291.34 to 291.40, by the probate court. In the event that the estate of the deceased is not probated, the tax shall be determined and computed by the commissioner of taxation. The amount of the tax so assessed shall be the amount by which 80 per cent of the estate tax, payable to the United States under the provisions of the federal revenue act of 1926, 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.

[1931 c. 332 s. 1] (2321-1)

291.35 TIME OF PAYMENT. The tax imposed by sections 291.34 to 291.40 shall become due and payable at the expiration of 18 months after the death of the person from whom the transfer is made, and executors, administrators, trustees, grantees, donees, beneficiaries, and surviving joint owners shall be and remain liable for the tax until it is paid. If the tax is not paid when due interest at the rate of six percent per annum shall be charged and collected from the time the same became payable.

[1931 c. 332 s. 2; 1953 c. 627 s. 1] (2321-2)

291.36 CERTAIN SECTIONS, WHEN VOID. Sections 291.34 to 291.40 shall become void and of no effect in respect to estates of persons who die subsequent to the effective date of the repeal of Title III of the Federal Revenue Act of 1926, or of the provisions thereof providing for a credit of the taxes paid to the several states of the United States, not exceeding 80 percent of the tax imposed by Title III.

[1931 c. 332 s. 3] (2321-3)

291.37 INTENT. It is hereby declared to be the intent and purpose of sections 291.34 to 291.40 to obtain for this state the benefit of the credit allowed under the provisions of Title III, Section 301, Subsection (b) of the federal revenue act of 1926, to the extent that this state may be entitled by the provisions of sections 291.34 to 291.40, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The commissioner of taxation may make such regulations relative to the assessment and the collection of the tax provided by sections 291.34 to 291.40, not inconsistent with law, as may be necessary to carry out this intent.

[1931 c. 332 s. 4] (2321-4)

291.38 APPLICATION. The provisions of sections 291.34 to 291.40 shall also apply to all estates not fully distributed and now in process of settlement, where the date of death was subsequent to February 26, 1926.

[1931 c. 332 s. 5] (2321-5)

291.39 OTHER LAWS. All provisions of sections 291.01 to 291.33, relating to succession taxes, are hereby made a part of sections 291.34 to 291.40 wherever the same are applicable.

[1931 c. 332 s. 6] (2321-6)

291.40 APPORTIONMENT OF ESTATE TAX. The tax which may be imposed under section 291.34 shall be a general obligation of the estate and shall not be apportioned among the several beneficiaries thereof unless so directed by the will of the decedent.

[1931 c. 332 s. 7; 1951 c. 249 s. 1] (2321-7)

NOTE: Laws 1905, Chapter 288, became effective April 19, 1905. It has been amended by the following acts: Laws 1911, Chapter 209, effective April 18, 1911; Laws 1911, Chapter 372, effective April 20, 1911; Laws 1913, Chapter 455, effective April 23, 1913; Laws 1913, Chapter 565, effective April 26, 1913; Laws 1913, Chapter 574, effective April 28, 1913; Laws 1919, Chapter 410, effective April 23, 1919; Laws Ex. 1919, Chapter 4, effective September 16, 1919; Laws 1927, Chapter 205, effective April 14, 1927; Laws 1927, Chapter 290, effective April 19, 1927; Laws 1931, Chapter 208, effective April 18, 1931; Laws 1933, Chapter 118, effective March 25, 1933; Laws 1935, Chapter 128, effective April 5, 1935; Laws 1935, Chapter 334, effective April 29, 1935; Laws Ex. 1937, Chapter 50, effective July 15, 1937; Laws 1939, Chapter 338, effective April 20, 1939; Laws 1939, Chapter 431, effective April 22, 1939; Laws 1941, Chapter 470, effective April 26, 1941; Laws 1943, Chapter 504, effective April 20, 1943; Laws 1943, Chapter 593, effective April 23, 1943.

291.41 DEFINITIONS. Subdivision 1. **Terms.** For the purposes of sections 291.41 to 291.47 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Executor.** "Executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator.

Subd. 3. **Taxing official.** "Taxing official" means the commissioner of taxation of this state and the officer or body designated as such in the statute of a reciprocal state substantially similar to sections 291.41 to 291.47.

Subd. 4. **Death tax.** "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

Subd. 5. **Interested person.** "Interested person" means any person who may be entitled to receive, or who has received any property or interest which may be required to be considered in computing the death tax of any state involved.

[1951 c 247 s 1]

291.42 ELECTION TO INVOKE. In any case in which this state and one or more other states each claims that it was the domicile of a decedent at the time of his death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of sections 291.41 to 291.47. Such executor or taxing official shall send a notice of such election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of such notice of election any executor may reject such election by sending a notice, by registered mail, receipt requested, to the taxing officials involved and to all other executors and to all interested parties. When an election has been rejected no further proceedings shall be had under sections 291.41 to 291.47. If such election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely in accordance with the provisions of sections 291.41 to 291.47. No other proceedings to determine or assess such death taxes shall thereafter be instituted in any court of this state or otherwise.

[1951 c 247 s 2]

291.43 AGREEMENTS AS TO DEATH TAX. In any case in which an election is made and not rejected the commissioner of taxation of this state may enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute.

[1951 c 247 s 3]

291.44 DETERMINATION OF DOMICILE. If in any such case it appears that an agreement cannot be reached, as provided in section 291.43, or if one year shall have elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(a) Where only this state and one other state are involved, the commissioner of taxation and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select one of its members as chairman.

(b) Such board shall hold hearing at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

(c) Such board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers, and documents, issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by such court.

(d) Whenever practicable such board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

(e) Such board shall determine the domicile of the decedent at the time of his death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purpose.

(f) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executors. If an agreement cannot be reached, such compensation and expenses shall be determined by such taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. Such amount shall be borne by the estate and shall be deemed an administration expense.

(g) The determination of such board and the record of its proceeding shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

[1951 c 247 s 4]

291.45 ACCEPTANCE OF AGREED SUM IN FULL PAYMENT. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in section 291.44, the commissioner of taxation of this state may in any case enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute, at any time before such proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of section 291.43 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the commissioner of taxation of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to such commissioner under such agreement bears to such aggregate amount.

[1951 c 247 s 5]

291.46 PENALTIES, INTEREST; LIMITATION. When in any case the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed four percent of the amount of the taxes per annum.

[1951 c 247 s 6]

291.47 APPLICATION. Sections 291.41 to 291.47 apply only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar to sections 291.41 to 291.47.

[1951 c 247 s 7]