

# MINNESOTA STATUTES 1977 SUPPLEMENT

## INHERITANCES, DEVISES, BEQUESTS 291.07

individual taxpayers. The commissioner may examine income tax returns as he deems necessary and may utilize the information in legal and administrative proceedings to insure proper administration of sections 290A.01 to 290A.21, notwithstanding section 290.61.

[ 1977 c 387 s 3 ]

### 290A.18 Right to file claim.

If a person entitled to relief under sections 290A.01 to 290A.21 dies prior to filing a claim or receiving relief, the surviving spouse or dependent of the person shall be entitled to file the claim and receive relief. If there is no surviving spouse or dependent, the right to the credit shall lapse.

[ 1977 c 423 art 2 s 16 ]

NOTE: Persons who file claims pursuant to this section prior to December 31, 1977 for previous years shall not be subject to the penalties provided in Minnesota Statutes, Section 290A.06, pursuant to Laws 1977, Chapter 423, Article 2, Section 21.

### 290A.19 Owner or managing agent to furnish rent certificate; penalty.

The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent paid to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the obligation of the owner or managing agent shall be to either provide the certificate to the renter at the time he moves, upon the renter's request, or to mail the certificate to the forwarding address provided by the renter. The certificate shall be made available to the renter not later than February 15 of the year following the year in which the rent was paid. Any owner or managing agent who willfully fails to furnish a certificate as provided herein shall be liable to the commissioner for a penalty of \$20 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax.

[ 1977 c 423 art 2 s 17 ]

NOTE: This section as amended by Laws 1977, Chapter 423, Article 2, Section 17, is effective for claims based on rent paid in 1977 and subsequent years and property taxes payable in 1978 and subsequent years.

### 290A.21 [ Repealed, 1977 c 423 art 2 s 20 ]

### 290A.23 Appropriation.

There is appropriated from the general fund in the state treasury to the commissioner of revenue the amount necessary to make the payments required by chapter 290A.

[ 1977 c 423 art 2 s 18 ]

NOTE: This section is effective for claims based on rent paid in 1977 and subsequent years and property taxes payable in 1978 and subsequent years.

## CHAPTER 291. INHERITANCES, DEVISES, BEQUESTS

Sec.  
291.07 Deductions.

Sec.  
291.09 Determination of tax.

### 291.07 Deductions.

Subdivision 1. In determining the tax imposed by section 291.01, where, a personal representative has been appointed for the estate, or where a decree of descent for the estate has been entered under section 525.31 or where there have been summary proceedings for the estate if under section 525.51, the following deductions shall be allowed:

(1) funeral expenses

(2) probate administration expenses, including but not limited to expenses incurred during administration in converting real and personal property held by the estate into cash

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- (3) expenses of last illness unpaid at death
- (4) valid claims against the decedent which have been properly paid
- (5) family maintenance to the extent provided by section 291.10
- (6) value of personal property to the extent of the amount allowed under the provisions of section 525.15

(7) federal estate taxes determined as follows:

(a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;

(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;

(c) the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury.

(d) for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate.

(8) other taxes which have accrued and are a lien on property in the estate at the time of death

(9) reasonable fees for legal or fiduciary services incident to non-probate assets

(10) Minnesota and federal income taxes on "income in respect of a decedent," as computed under subdivision 3.

Subd. 2. In determining the tax imposed by section 291.01, where an estate has not been submitted to the jurisdiction of the court, the following deductions shall be allowed:

- (1) funeral expenses,
- (2) expenses of last illness unpaid at death,
- (3) federal estate taxes determined as follows:

(a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;

(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;

(c) the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury;

(d) for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate;

(e) apportionment of the federal estate tax to the individual transferees shall be subject to the provisions of section 524.3-916.

(4) value of personal property to the extent of the amount allowed under the provisions of section 525.15. A formal order of the probate court is not necessary before these deductions may be taken in the computation of the tax,

(5) other taxes which have accrued and are a lien on property in the estate at the time of death,

(6) reasonable fees for legal or fiduciary services incident to non-probate assets,

(7) Minnesota and federal income taxes on "income in respect of a decedent," as computed under subdivision 3.

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Where an estate has not been submitted to the probate court, deductions under (1), (2), (3) and (6) heretofore shall be allowed only to the persons actually having disbursed moneys for payments, and shall not exceed the net amount of such disbursements after giving credit for death benefits, medical and hospitalization insurance payments.

No deduction shall be allowed unless the person claiming the deduction when requested by the probate court or the commissioner, furnishes the court or the commissioner with information sufficient to enable the court or commissioner to determine the validity or correctness thereof.

Subd. 2a. The deductions set forth in subdivision 1 shall be allowed in estates that have not been approved by the court in a formal proceeding. The deductions taken shall be submitted to the commissioner prior to the closing of the estate. The deductions shall be allowed unless the commissioner objects to any deduction claimed. The objection shall be made in the manner provided by section 291.09, subdivision 1.

Subd. 3. (a) The Minnesota and federal income tax allowed as deductions under subdivision 1, clause (10) and subdivision 2, clause (7) shall be computed as follows:

The table of rates required to be used by single taxpayers who itemize their allowable deductions shall be applied to the "income in respect of a decedent" as though such "income in respect of a decedent" constituted the entire income of the decedent taxable after giving effect to all allowable deductions. The amount of Minnesota or federal income tax as so computed shall not be diminished by any credits allowable by Minnesota or federal income tax laws.

(b) The deductions allowed herein shall be the only deductions allowed under this chapter for "income in respect of a decedent," without regard to the actual liability for income taxes that may be due and payable subsequently with respect to such "income in respect of a decedent."

[ 1977 c 440 s 1 ]

NOTE: This section as amended by Laws 1977, Chapter 440, Section 1, is effective June 3, 1977 as to all informal proceedings commenced after January 1, 1976.

**291.09 Determination of tax.**

Subdivision 1. (a) Every personal representative shall submit to the commissioner a copy of the inventory and appraisal prepared by him in accordance with sections 524.3-706 to 524.3-708 relating to the inventory and appraisal, and a true and complete schedule of non-probate assets, on a form prescribed by the commissioner, and copies of such other documents as the commissioner shall request, within 30 days of receipt of the inheritance tax return, for the proper valuation of assets and the determination of the amount of the tax which may be due.

(b) Every personal representative shall file with the commissioner, on a form prescribed by the commissioner, an inheritance tax return showing the values contained in the inventory and appraisal and schedule of non-probate assets and deductions and exemptions claimed by the representative, and containing a computation of the inheritance tax due under the provisions of this chapter.

(c) Except as hereinafter provided, such inheritance tax return shall be conclusive as to the valuation of both probate and non-probate assets, to all other matters relating to the taxability of probate assets, and to the computation of the tax, unless, within 90 days after such filing, the commissioner, or any other person from whom any portion of such tax is due, has filed with the personal representative (and with the commissioner if the person objecting is one other than a personal representative) written objections indicating the items to which the commissioner or any other person specifically objects with respect to the determination of the tax, and detailing the rights available to the personal representative under chapter 15. For purposes of this clause, the 90 day statute of limitations provided herein shall not begin to run until the documents required in clause (a) above and elsewhere in this chapter have been received by the commissioner. Except as provided

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in clause (f) of this subdivision, upon objection the commissioner shall fix the time and place of a hearing thereon no earlier than ten days and no later than 30 days after the date of the filing of the objection unless the personal representative shall elect to postpone or waive his rights as specified under chapter 15. At such hearing the commissioner shall consider all available material presented by the personal representative for the purpose of substantiating or verifying the matters subject to the objections. Not later than 30 days after the commissioner receives the report and recommendation of the hearing examiner or the written waiver by the personal representative, the commissioner shall issue an order indicating the adjustment, if any, of the computation of the inheritance tax due.

(d) If the court upon a hearing on a personal representative's account allows a deduction different in amount than that used in the determination of the inheritance tax return as provided in the preceding subparagraph (b), or if the court determines:

(i) such property passes to a person or persons other than the person or persons reported on the inheritance tax return; or

(ii) such property passes to the person or persons reported on the inheritance tax return in amounts or shares different than those reported thereon; or

(iii) the relationship between the decedent and any person to whom property passes is other than the relationship reported on the inheritance tax return,

the commissioner not later than 90 days after receipt of a copy of the court's order or decree may issue an order adjusting the computation of the inheritance tax due in accordance therewith.

(e) The court may waive the filing of any inheritance tax return required by subparagraph (b) where it appears that no inheritance tax is due, but such waiver shall not limit the right of the commissioner to file a return pursuant to subdivision 3 hereof.

(f) If objections have been filed as provided in clause (c) of this subdivision, the personal representative or any other objector, in lieu of the hearing prescribed in clause (c) or subsequent to the hearing, may elect to have a formal proceeding under chapter 524 to determine the disputed matters.

(g) Any determination made by the commissioner may be appealed to the Minnesota tax court of appeals as provided in section 271.09.

Subd. 2. (a) When no representative has been appointed by the probate court, every person from whom a tax is due under the provisions of this chapter shall file with the commissioner, on forms prescribed by the commissioner, a schedule of non-probate assets listing the transfers on account of which such tax is due and an inheritance tax return showing the values contained in such schedule and all claimed deductions and exemptions and containing a computation of such tax.

(b) When no representative has been appointed by the probate court, and in cases where a representative has been appointed, as to matters reflected in the inheritance tax return which are not to be determined as prescribed in subdivision 1, subparagraph (c) hereof, the tax as computed on the return shall be the inheritance tax imposed by this chapter upon the transfers reported therein unless within 90 days after such filing, the commissioner or any other person from whom any portion of such tax is due mails a written notice to the commissioner, to the person so filing such return, and to each person from whom any part of such tax is due, indicating the items to which the commissioner or any other person specifically objects and detailing the rights available to the taxpayer or personal representative under chapter 15 and fixing the time and place of a hearing thereon at least 30 days subsequent to the date of such notice unless the taxpayer or personal representative shall have elected in writing to postpone or waive his rights as specified under chapter 15. At such hearing the commissioner shall hear such objections, and within 30 days after receiving the report and recommendation of the hearing examiner or the waiver by the taxpayer or personal representative, shall make his order determining the inheritance tax imposed by this chapter.

(c) The filing of an inheritance tax return shall not be required under the preceding subparagraph (a) where the transfers resulting in the tax were included in a

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schedule of non-probate assets and an inheritance tax return previously filed with the commissioner.

(d) For purposes of clause (b) the 90 day statute of limitations provided in this subdivision shall not begin to run until copies of all documents as the commissioner shall request, within 30 days of receipt of the inheritance tax return, for the proper valuation of assets and determination of the amount of the tax which may be due have been received by the commissioner.

[For text of subs 3 to 6, see M.S.1976]

[ 1977 c 203 s 1,2 ]

### CHAPTER 294. GENERAL PROVISIONS

Sec.  
294.26 Deposit of proceeds of tax.  
294.27 Repealed.

Sec.  
294.28 Repealed.

#### 294.26 Deposit of proceeds of tax.

The proceeds of the taxes collected under sections 294.21 to 294.27 shall be deposited in the general fund of the state.

[ 1977 c 423 art 10 s 5 ]

NOTE: This section as amended by Laws 1977, Chapter 423, Article 10, Section 5, is effective for distributions made in any year after December 31, 1977.

#### 294.27 [ Repealed, 1977 c 423 art 10 s 30 ]

NOTE: This section is repealed effective for distributions made in any year after December 31, 1977.

#### 294.28 [ Repealed, 1977 c 423 art 10 s 30 ]

NOTE: This section is repealed effective for distributions made in any year after December 31, 1977.

### CHAPTER 296. GASOLINE, GASOLINE SUBSTITUTES

Sec.  
296.02 Gasoline, excise tax.  
296.025 Special fuel, excise tax.  
296.115 Revocation of motor carrier licenses.  
[New]

Sec.  
296.17 Unreported gasoline and special fuel;  
gasoline and special fuel used in other  
states; motor fuel road tax.  
296.18 Refunds.

#### 296.02 Gasoline, excise tax.

[For text of subd 1, see M.S.1976]

Subd. 1a. **Exception.** The provisions of subdivision 1 do not apply to gasoline purchased by a transit system owned by one or more statutory or home rule charter cities or towns.

[For text of subs 2 to 6, see M.S.1976]

[ 1977 c 339 s 1 ]

#### 296.025 Special fuel, excise tax.

[For text of subd 1, see M.S.1976]

Subd. 1a. **Exception.** The provisions of subdivision 1 do not apply to special fuel purchased by a transit system owned by one or more statutory or home rule charter cities or towns.

[For text of subs 2 to 6, see M.S.1976]

[ 1977 c 339 s 2 ]