

CHAPTER 291

ESTATE TAX

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291.005 DEFINITIONS.

Subdivision 1. Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:

(1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(2) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

(3) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

(4) "Resident decedent" means an individual whose domicile at the time of his death was in Minnesota.

(5) "Nonresident decedent" means an individual whose domicile at the time of his death was not in Minnesota.

(6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

(7) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended through December 31, 1984.

[For text of subd 2, see M.S. 1984]

History: 1Sp1985 c 14 art 13 s 2

291.015 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.03 RATES.

Subdivision 1. **Tax amount.** The tax imposed shall be an amount equal to the proportion of the maximum credit allowable under section 2011 of the Internal Revenue Code for state death taxes as the Minnesota gross estate bears to the value of the federal gross estate. For a resident decedent, the tax shall be the maximum credit allowable under section 2011 of the Internal Revenue Code reduced by the amount of the death tax paid the other state and credited against the federal estate tax if this results in a larger amount of tax than the proportionate amount of the credit. The tax determined under this paragraph shall not be greater than the maximum credit allowable under section 2011 of the Internal Revenue Code.

[For text of subd 2, see M.S.1984]

Subd. 3. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 4. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 5. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 6. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 7. [Repealed, 1Sp1985 c 14 art 13 s 14]

History: 1Sp1985 c 14 art 13 s 3

291.05 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.051 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.06 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.065 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.07 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.075 SPECIAL USE VALUATION OF QUALIFIED PROPERTY.

If, after the final determination of the tax imposed by this chapter, the property valued pursuant to section 2032A of the Internal Revenue Code is disposed of or fails to qualify and an additional tax is imposed pursuant to section 2032A(c), any increase in the credit for state death taxes shall be reported to the commissioner within 90 days after final determination of the increased credit. Upon notification the commissioner may assess an additional tax in accordance with section 291.03, subdivision 1.

History: 1Sp1985 c 14 art 13 s 4

291.08 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.09 DETERMINATION OF TAX.

Subd. 1a. In the case of a decedent dying after December 31, 1985 who has an interest in property with a situs in Minnesota, the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return in all instances in which a federal estate tax return is required to be filed.

The return shall be accompanied by a federal estate tax return, a schedule of all assets in the estate at their date of death values, and shall contain a computation of the Minnesota estate tax due. The return shall be signed by the personal representative.

Subd. 2a. The commissioner may designate on the return the documents that are required to be filed together with the return in order to determine the computation of tax. The commissioner shall not be bound by any item on the

return unless he has received all required documents and unless all items of information on the return have been completed.

Subd. 3a. (1) The commissioner may challenge matters of taxability of any assets reported on the return or the computation of tax, only if within 180 days from the due date of the return or the receipt of the return and all documents required to be filed with the return, whichever is later, the commissioner mails or delivers a written notice to the personal representative objecting to the return as filed and specifying the reasons for the objection.

(2) If the personal representative disagrees with the objection or does not wish to fully comply with the objection, he may request that the commissioner hold a hearing on the objection. Within 30 days of receipt of a request, the commissioner shall set a time and place for hearing. Unless otherwise agreed upon, the hearing date shall not be earlier than 30 days nor later than 60 days from the date of the notice setting the hearing. The notice of hearing shall set forth the rights available to the personal representative under chapter 14. Not later than 30 days after the commissioner receives the report and recommendation of the administrative law judge, or a written waiver of his hearing rights by the personal representative, the commissioner shall issue an order determining the tax. Any such determination made by the commissioner may be appealed to the tax court as provided in section 271.09.

(3) At any time together with or after the objection, the commissioner, on his own initiative, may set a time and place for a hearing in accordance with (2) above.

(4) In his objection, or at any time thereafter, the commissioner may assess any additional tax as the facts may warrant, subject to the right of the personal representative to demand a hearing under chapter 14. If the personal representative does not demand a hearing within 90 days of the date of the assessment, the tax so assessed shall be legally due and the commissioner may proceed to collect the unpaid tax. If the commissioner later finds the tax assessment to be erroneous, he may adjust the assessment prior to collection.

(5) The commissioner shall not be required to object to any subsequent original, amended or supplemental return in order to preserve his rights. The commissioner shall not be precluded from objecting to a subsequent original, amended or supplemental return even though an original return was accepted as filed. If the commissioner had accepted an original return showing no tax due and a subsequent original, amended or supplemental return discloses additional assets not disclosed on the original return, the commissioner may object to any matter of taxability or computation of tax on the original return within 180 days of receipt of the subsequent original, amended or supplemental return.

(6) Subject to the provisions of sections 291.11 and 291.215, the Minnesota estate tax liability shall be considered as finally determined on the date notification of acceptance is issued to the personal representative or, if no objection is filed, on the day following 180 days from the due date of the return or the receipt of the return, together with all other documents required to be filed with the return, whichever is later.

(7) Subject to the time limits imposed elsewhere in this chapter, the commissioner may refund an overpayment of tax, penalty or interest even though the personal representative has not made an application for refund.

[For text of subd 4a, see M.S.1984]

Subd. 5. [Repealed, 1Sp1985 c 14 art 13 s 14]

[For text of subds 6 and 7, see M.S.1984]

History: 1Sp1985 c 14 art 13 s 5-7

291.11 TIME EFFECTIVE.

Subdivision 1. (1) All taxes imposed by this chapter shall take effect at and upon the death of the person whose estate is subject to taxation and shall be due and payable at the expiration of nine months from such death, except as otherwise provided in this chapter. Where an extension to file the federal estate tax return has been granted under the provision of section 6081 of the Internal Revenue Code, the time for filing the estate tax return or making payment of the tax without penalty, is extended for the same period. Provided, that any taxpayer who owes at least \$5,000 in taxes and who, under section 6161 or 6166 of the Internal Revenue Code, has been granted an extension for payment of the tax shown on the return, may elect to pay the commissioner the amount of tax due in equal amounts at the same time as required for federal purposes. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than nine months after the death of the person whose estate is subject to taxation. If the taxpayer fails to pay an installment on time, unless it is shown that such failure is due to reasonable cause, the election shall be revoked and the entire amount of unpaid tax plus accrued interest shall be due and payable 90 days after the date on which the installment was payable.

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

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

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

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

(3) Where, before the expiration of the time prescribed in this chapter for the determination or adjustment of the tax, the commissioner and the taxpayer shall consent in writing to the extension of time for such determination or adjustment the tax may be determined at any time prior to the expiration agreed upon and in the manner agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

History: 1Sp1985 c 14 art 13 s 8

291.111 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.131 PENALTIES.

[For text of subds 1 to 4, see M.S.1984]

Subd. 5. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 6. [Repealed, 1Sp1985 c 14 art 13 s 14]

291.132 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.15 INTEREST.

Subdivision 1. If the tax is not paid within the time specified for payment, the unpaid tax and any penalty imposed under section 291.131 shall bear interest at the rate specified in section 270.75 from the due date until the date the tax is paid.

Unpaid tax includes the unpaid tax when the taxpayer elects to pay the tax in installments and the due date is the date the tax was due without regard to any extension that is granted or an election to pay the tax in installments. In the event a person or corporation upon proper authorization makes a payment to be applied against the tax thereafter, no interest shall accrue on the amount so paid. All payments shall be applied first to penalties, next to interest and then upon principal.

Subd. 2. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 3. Interest shall be paid on installment payments of the tax authorized under section 291.11, subdivision 1, at the rate of interest in effect pursuant to section 270.75 nine months following the date of death.

History: 1Sp1985 c 14 art 13 s 9,10

291.18 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.20 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.215 VALUATION OF ESTATE; REPORTING.

Subdivision 1. All property includable in the Minnesota gross estate of a decedent shall be valued in accordance with the provisions of sections 2031 or 2032 and, if applicable, 2032A, of the Internal Revenue Code and any elections made in valuing the federal gross estate shall be applicable in valuing the Minnesota gross estate. Values for purposes of the estate tax on both probate and nonprobate assets shall be the same as those finally determined for purposes of the federal estate tax on a decedent's estate.

[For text of subds 2 and 3, see M.S.1984]

History: 1Sp1985 c 14 art 13 s 11

291.29 REPORT OF COUNTY RECORDER.

Subd. 5. [Repealed, 1Sp1985 c 14 art 13 s 14]

291.32 REFUNDING OF TAX.

Subdivision 1. If under the provisions of this chapter any person or corporation is entitled to a return of any part of a tax, penalty, or interest previously paid in excess of the amount legally due, he may apply to the commissioner for a determination of the amount which he is entitled to have returned. The applicant must furnish the commissioner with evidence showing the facts which entitled him to such return and the amount he is entitled to have returned. The commissioner must examine the application and deny or allow, in a written order, the application in whole or in part. A copy of the order must be mailed to the applicant at the address stated on the application. If such application is allowed in whole or in part, the commissioner shall pay the refund. The amount of taxes, penalty, and interest in excess of the amount legally due must be paid with interest at the rate specified in section 270.76, from the date of payment or from the date beginning nine months after the death of the decedent, whichever is later. The money necessary to pay the amounts are appropriated to the commissioner out of the general fund.

Subd. 2. All applications for refunds must be made within two years from the date of final determination or adjustment of any part of the tax, penalty, or interest by the taxpayer, the commissioner, or the tax court, as applicable. 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.

History: *1Sp1985 c 14 art 13 s 12*