

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 death was in Minnesota.

(5) "Nonresident decedent" means an individual whose domicile at the time of 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.

Subd. 2. The definitions set forth in section 524.1-201, wherever appropriate to the administration of the provisions of this chapter are incorporated by reference.

History: 1963 c 740 s 26; 1973 c 185 s 1; 1973 c 582 s 3; 1975 c 347 s 2; 1979 c 303 art 3 s 1; 1980 c 439 s 4; 1981 c 49 s 2; 3Sp1981 c 2 art 6 s 1; 1983 c 222 s 22; 1Sp1985 c 14 art 13 s 2; 1986 c 444

291.01 TAX IMPOSED.

A tax is hereby imposed upon the transfer of estates of decedents as prescribed by this chapter.

History: (2292) 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; 1961 c 442 s 1; 1963 c 182 s 1; 1963 c 218 s 1; 1963 c 740 s 1,2; 1965 c 89 s 1; 1965 c 555 s 1; 1967 c 850 s 1; 1978 c 741 s 1; 1979 c 303 art 3 s 2; 1980 c 439 s 5

291.015 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.02 [Repealed, 1979 c 303 art 3 s 41]

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.

Subd. 2. **Intent.** It is hereby declared to be the intent and purpose of this section to obtain for Minnesota the benefit of not less than the maximum credit allowed for state death taxes under the federal estate tax law by imposing the tax provided in this section and the same shall be liberally construed to effect this purpose.

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: (2293) 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; Ex1959 c 70 art 4 s 1; 1963 c 107 s 1; 1973 c 185 s 2; 1976 c 320 s 1; 1979 c 303 art 3 s 4; 1980 c 439 s 7; 1981 c 49 s 3; 3Sp1981 c 2 art 6 s 3; 1982 c 523 art 26 s 3; 1983 c 222 s 23; 1Sp1985 c 14 art 13 s 3

291.04 [Repealed, Ex1959 c 70 art 4 s 2]

291.05 [Repealed, 1Sp1985 c 14 art 13 s 14]

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 [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 2. [Repealed, 3Sp1981 c 2 art 6 s 7; 1Sp1985 c 14 art 13 s 14]

Subd. 3. [Repealed, 3Sp1981 c 2 art 6 s 7; 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 Subdivision 1. [Repealed, 1Sp1985 c 14 art 13 s 14]

Subd. 2. [Repealed, 1979 c 303 art 3 s 41; 1Sp1985 c 14 art 13 s 14]

Subd. 2a. [Repealed, 1979 c 303 art 3 s 41; 1Sp1985 c 14 art 13 s 14]

Subd. 3. [Repealed, 1983 c 222 s 45; 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: 1979 c 303 art 3 s 10; 1980 c 439 s 13; 1Sp1985 c 14 art 13 s 4

291.08 [Repealed, 1Sp1985 c 14 art 13 s 14]

291.09 DETERMINATION OF TAX.

Subdivision 1. [Repealed, 1979 c 303 art 3 s 41]

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. 2. [Repealed, 1979 c 303 art 3 s 41]

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

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

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) A personal representative who disagrees with the objection or does not wish to fully comply with the objection, 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 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 may initiate the setting of a time and place for a hearing in accordance with (2) above.

(4) In the 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. The commissioner, on later finding the tax assessment to be erroneous, 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 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.

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4a. If any estate tax return required to be filed pursuant to the provisions of this section has not been filed, the commissioner may make and file a return including a computation of the tax resulting from the transfers therein reported. At the time of the filing the commissioner shall mail copies of the return to the personal representative, if any, and to each person from whom any portion of the tax is due. The return may be objected to by the personal representative and a hearing held on the objections in the manner provided in subdivision 3a.

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

Subd. 6. Except as otherwise provided, the tax as determined and adjusted by the commissioner under the provisions of this chapter shall be the tax legally due and imposed thereunder.

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

History: (2293) 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; 1963 c 740 s 4; Ex1971 c 31 art 3 s 1; 1973 c 184 s 1,2; 1975 c 347 s 5; 1976 c 134 s 78; 1977 c 203 s 1,2; 1977 c 307 s 29; 1978 c 741 s 4; 1979 c 303 art 3 s 12-17; 1980 c 439 s 14,15; 1981 c 49 s 8; 3Sp1981 c 2 art 6 s 5; 1982 c 424 s 130; 1982 c 523 art 26 s 5; 1983 c 222 s 25; 1984 c 640 s 32; 1Sp1985 c 14 art 13 s 5-7; 1986 c 444

291.10 [Repealed, 1979 c 303 art 3 s 41]

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. A taxpayer electing to pay the tax in installments 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.

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

Subd. 5. [Repealed, 1979 c 303 art 3 s 41]

Subd. 6. [Repealed, 1979 c 303 art 3 s 41]

Subd. 7. [Repealed, 1979 c 303 art 3 s 41]

Subd. 8. [Repealed, 1979 c 303 art 3 s 41]

Subd. 9. [Repealed, 1979 c 303 art 3 s 41]

History: (2294) 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; 1961 c 262 s 1; 1961 c 492 s 1; 1963 c 740 s 5; 1971 c 768 s 1; Ex1971 c 31 art 3 s 2; 1975 c 377 s 20; 1976 c 320 s 5; 1978 c 741 s 5; 1979 c 303 art 3 s 18; 1980 c 439 s 17; 1Sp1985 c 14 art 13 s 8; 1986 c 444

291.111 Subdivision 1. [Repealed, 1980 c 439 s 35; 1Sp1985 c 14 art 13 s 14]

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

291.12 COLLECTION OF TAX.

Subdivision 1. Any representative or trustee who has in possession or under control, property, the transfer of which is subject to any tax imposed by this chapter and from which such tax may lawfully be paid by the representative or trustee, shall either deduct the amount of tax due or shall collect from the person entitled to such property, the amount of tax due, together with any accrued interest thereon, before completing the transfer of such property or making delivery thereof and shall pay to the commissioner all taxes and interest so deducted or collected.

Subd. 2. Any representative or trustee having in possession or under control any property to which a person, from whom a tax is known by such representative or trustee to be due under the provisions of this chapter, is entitled, shall be personally liable for the payment of such tax and any interest accrued, to the extent of the value of such property; provided, however, that there shall be no such liability if such property cannot be lawfully used by the representative or trustee for the payment of such taxes or interest.

Subd. 3. No representative or trustee shall be required to transfer or deliver any property in possession or under control unless all taxes and interest due from the person entitled thereto under the provisions of this chapter have either been deducted or collected by the representative or trustee or paid by the transferee to the commissioner.

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

History: (2295) 1905 c 288 s 4; 1939 c 338 s 4; 1943 c 504 s 6; 1953 c 628 s 1; 1963 c 740 s 6; 1986 c 444

291.13 TAXES TO BE PAID TO COMMISSIONER OF REVENUE.

Subdivision 1. All taxes imposed by this chapter shall be paid to the commissioner.

Subd. 2. [Repealed, 1978 c 766 s 20]

Subd. 3. All taxes paid under the provisions of this chapter shall be deposited by the commissioner in the state treasury, and shall belong to and be a part of the general fund of the state.

History: (2296) 1905 c 288 s 5; 1939 c 338 s 5; 1943 c 593 s 1; 1953 c 630 s 1; 1963 c 740 s 7; 1969 c 399 s 49

291.131 PENALTIES.

Subdivision 1. Failure to pay tax. If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to three percent of the unpaid tax shall be added to the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 24 percent in the aggregate.

Subd. 2. Failure to make and file return. In case of any failure to make and file a return within the time prescribed or an extension thereof, a penalty of three percent of the amount of tax not paid on or before the date prescribed for payment of the tax shall be added to the tax if the failure is for not more than 30 days with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Subd. 2a. Combined penalties. Where penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Subd. 3. If any person with willful intent to evade the tax imposed by this chapter shall fail to file any return required by this chapter or shall with such intent file a false or fraudulent return, a penalty of 50 percent of any tax found to be due (less any amounts paid on the basis of such false or fraudulent return) shall be imposed. This penalty shall be in addition to any other penalties, civil or criminal, provided in this section.

Subd. 4. In addition to the penalties hereinbefore described, any person who knowingly fails to file a return at the time required by this chapter shall be guilty of a misdemeanor, unless no taxes are due. Any person who willfully files a false return with intent to evade such taxes shall be guilty of a gross misdemeanor. The term "person" includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member, or employee is under a duty to perform the act in respect to which the violation occurs.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

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

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

History: 1975 c 377 s 21; 1976 c 320 s 6; 1978 c 741 s 6; 1983 c 222 s 26; 1987 c 268 art 17 s 20-23

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

291.14 PERSONAL LIABILITY OF PERSONAL REPRESENTATIVE AND TRANSFEREE.

The personal representative and person to whom property which is subject to taxation under this chapter is transferred, other than a bona fide purchaser, mortgagee, or lessee, shall be personally liable for such tax, until its payment, to the extent of the value of the property. The exemption from personal liability will extend to all subsequent transferees from bona fide purchasers, mortgagees, and lessees.

History: (2297) 1905 c 288 s 6; 1933 c 118 s 1; 1963 c 740 s 8; 1967 c 850 s 2; 1969

c 891 s 1; 1975 c 347 s 6,7; 1976 c 181 s 2; 1976 c 320 s 8,9; 1979 c 303 art 3 s 21; 1980 c 439 s 19

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: (2298) 1905 c 288 s 7; 1943 c 504 s 7; 1953 c 659 s 2; 1959 c 682 s 1; 1963 c 111 s 1; 1965 c 51 s 64; Ex1971 c 31 art 3 s 3; 1973 c 492 s 14; 1973 c 582 s 3; 1975 c 377 s 23; 1980 c 439 s 20; 1982 c 523 art 26 s 6; 1Sp1985 c 14 art 13 s 9,10

291.16 POWER OF SALE.

Every executor, administrator, or trustee shall have full power to sell the property embraced in any inheritance, devise, bequest, or legacy to pay the tax imposed by this chapter, in the same manner as entitled by law to do for the payment of the debts of a testator or intestate.

History: (2299) 1905 c 288 s 8; 1986 c 444

291.17 [Repealed, 1980 c 439 s 35]

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

291.19 Subdivision 1. [Repealed, 1980 c 439 s 35]

Subd. 2. [Repealed, 1980 c 439 s 35]

Subd. 3. [Repealed, 1980 c 439 s 35]

Subd. 4. [Repealed, 1980 c 439 s 35]

Subd. 5. MS 1945 [Repealed, 1947 c 556 s 3]

Subd. 5. MS 1978 [Repealed, 1979 c 303 art 3 s 41]

Subd. 6. [Repealed, 1947 c 556 s 3]

Subd. 7. [Repealed, 1947 c 556 s 3]

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

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

Subd. 3. [Repealed, 1979 c 303 art 3 s 41; 1Sp1985 c 14 art 13 s 14]

Subd. 4. [Repealed, 1980 c 439 s 35; 1Sp1985 c 14 art 13 s 14]

291.21 LETTERS OF ADMINISTRATION.

Subdivision 1. The commissioner shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

History: (2304) 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; 1963 c 740 s 10

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.

Subd. 2. Before the final settlement of an estate the personal representative shall furnish an amended estate tax return listing all property and taxable transfers or other events of which the personal representative has become aware since the first estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. The personal representative also shall furnish copies of any documents or records and any other information relating to the estate or its value upon request of the commissioner of revenue.

Subd. 3. The personal representative shall file an amended estate tax return within 90 days after any amended estate tax return is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, the personal representative shall file an amended estate tax return with the commissioner of revenue within 90 days after the final determination of the change or correction is made. If the personal representative fails to file an amended estate tax return, the commissioner of revenue may reassess the estate tax.

History: 1979 c 303 art 3 s 24; 1980 c 439 s 22; 1983 c 222 s 28; 1Sp1985 c 14 art 13 s 11; 1986 c 444

291.22 [Repealed, 1979 c 303 art 3 s 41]

291.23 [Repealed, 1979 c 303 art 3 s 41]

291.24 [Repealed, 1979 c 303 art 3 s 41]

291.25 [Repealed, 1979 c 303 art 3 s 41]

291.26 [Repealed, 1979 c 303 art 3 s 41]

291.27 UNPAID TAX; OMITTED PROPERTY.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected from any transferee of property included in the Minnesota estate by action in the court of administration of the estate of the decedent or in a court of general jurisdiction by the personal representative of any estate, the attorney general, or the commissioner in the name of the state.

Any property which for any cause is omitted from the Minnesota estate tax return so that its value is not taken into consideration in the determination of the estate tax, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the estate tax return, except that any personal representative of an estate discharged in the meantime shall not be liable for the payment of such tax. When any property has been omitted in the determination of an estate tax, the tax thereon may be determined and recovered in a civil action brought by the attorney general or the commissioner, in the name of the state, in any court of general jurisdiction.

History: (2311) 1905 c 288 s 20; 1913 c 574 s 3; 1939 c 338 s 10; 1939 c 431 art 6 s 6; 1947 c 519 s 1; 1963 c 740 s 15; 1979 c 303 art 3 s 25; 1986 c 444

291.29 Subdivision 1. [Repealed, 1979 c 303 art 3 s 41]

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

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

291.30 [Repealed, 1979 c 303 art 3 s 41]

291.31 POWERS OF COMMISSIONER OF REVENUE.

Subdivision 1. The commissioner of revenue is hereby authorized and empowered to issue a citation to any person who the commissioner may believe or has reason to believe has any knowledge or information concerning any property which the commissioner 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 the commissioner at a time and place to be designated in such citation and testify, under oath, as to any fact or information within the cited person's 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 revenue any books, records, accounts, or documents in the possession of or under the control of any person so cited. The commissioner of revenue 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 the commissioner 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 revenue under and by virtue of the means and methods provided for by this section shall be deemed and held by the commissioner as confidential and shall not be disclosed by the commissioner except so far as the same may be necessary for the enforcement and collection of the tax provided for by this chapter.

Refusal of any person to attend before the commissioner of revenue in obedience to any such citation, or to testify, or produce any books, accounts, records, or documents in possession or under control, and submit the same to inspection of the commissioner of revenue when so required, may, upon application of the commissioner of revenue, 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 revenue, 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 revenue out of the funds appropriated for the enforcement of this chapter.

Subd. 2. The commissioner shall administer and enforce the assessment and collection of the taxes imposed by this chapter and may, from time to time, make, publish, and distribute rules in enforcing its provisions. The commissioner may make a charge for copies distributed upon request and shall cause to be prepared blank forms for the returns required by this chapter, but failure to receive or secure them shall not relieve any person or corporation from the obligation of making any return required under this chapter. The commissioner may prescribe rules governing the recognition of persons, other than attorneys at law licensed to practice in Minnesota, who represent others before the commissioner.

History: (2314) 1905 c 288 s 21-B; 1911 c 209 s 9; 1939 c 431 art 6 s 6; 1963 c 201 s 1; 1973 c 582 s 3; 1981 c 49 s 9; 1985 c 248 s 70; 1986 c 444

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, the payer may apply to the commissioner for a determination of the amount to be returned. The applicant must furnish the commissioner with evidence showing the facts which entitled the applicant to such return and the amount to be 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 taxpayer's 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: (2315) 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; 1963 c 109 s 1; 1963 c 740 s 18; 1980 c 439 s 23; 1Sp1985 c 14 art 13 s 12; 1986 c 444

291.33 [Repealed, 1Sp1981 c 1 art 3 s 4]

291.34 [Repealed, 1979 c 303 art 3 s 41]

291.35 [Repealed, 1979 c 303 art 3 s 41]

291.36 [Repealed, 1979 c 303 art 3 s 41]

291.37 [Repealed, 1979 c 303 art 3 s 41]

291.38 [Repealed, 1979 c 303 art 3 s 41]

291.39 [Repealed, 1979 c 303 art 3 s 41]

291.40 [Repealed, 1979 c 303 art 3 s 41]

291.41 DEFINITIONS.

Subdivision 1. 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" 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" means the commissioner of revenue 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" 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" 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.

History: 1951 c 247 s 1; 1973 c 582 s 3

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 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 certified 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 certified 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.

History: 1951 c 247 s 2; 1978 c 674 s 60; 1986 c 444

291.43 AGREEMENTS AS TO DEATH TAX.

In any case in which an election is made and not rejected the commissioner of revenue 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.

History: 1951 c 247 s 3; 1973 c 582 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 death shall be determined solely for death tax purposes as follows:

(1) Where only this state and one other state are involved, the commissioner of revenue 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 chair.

(2) 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.

(3) 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.

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

(5) Such board shall determine the domicile of the decedent at the time of 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.

(6) 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.

(7) 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.

History: 1951 c 247 s 4; 1973 c 582 s 3; 1986 c 444

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 revenue 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 revenue 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.

History: 1951 c 247 s 5; 1973 c 582 s 3

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 ten percent of the amount of the taxes per annum.

History: 1951 c 247 s 6; 1975 c 377 s 26

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.

History: 1951 c 247 s 7

291.48 PUBLICITY OF RETURNS; INFORMATION.

It shall be unlawful for the commissioner or any other public official, employee or former employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by this chapter or chapter 292 or information acquired while examining or auditing any taxpayer's liability for taxes thereunder, except in connection with a proceeding involving taxes due under this chapter or chapter 292 from the taxpayer making the return. The commissioner may furnish a copy of any return or report to any official of the United States or any state having duties to perform in respect to the assessment or collection of any inheritance, estate, or gift tax, if the taxpayer is required by the laws of the United States or of the other state to make a return therein. Prior to the release of any information to any official of the United States or any other state under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed to the extent that it is protected under the laws of the state of Minnesota. The commissioner and all other public officials and employees shall keep and maintain the

same secrecy with respect to any information furnished by any department, commission, or official of the United States or of any other state. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular property, decedents, heirs, or personal representatives, returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

The report or return of a decedent or donor shall, upon written request, be open to inspection by or disclosure to (1) the administrator, executor, or trustee of the estate, and (2) any heir at law, next of kin, or beneficiary under the will of the decedent, and any other person whose basis in property is determined in whole or part by values set forth in the return, or (3) a donee of the property, or (4) a holder of an interest in the property, but only if the commissioner finds that the heir, next of kin, beneficiary or other person or donee has a material interest which will be affected by information contained therein.

For purposes of this section the term public official shall not include judges, officials or employees of a court having jurisdiction of probate proceedings, county recorders, county treasurers, and employees in their respective offices.

History: 1979 c 303 art 3 s 26; 1980 c 439 s 26; 1981 c 49 s 10; 1986 c 444