CHAPTER 291
ESTATE TAX

291.005 DEFINITIONS.

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

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

(2) "Federal gross estate" means the gross estate of a decedent as required to be valued and otherwise determined for federal estate tax purposes under the Internal Revenue Code.

(3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through January 3, 2013, but without regard to the provisions of section 2011, paragraph (f), of the Internal Revenue Code.

(4) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, plus

(i) the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code;

(ii) the amount of taxable gifts, as defined in section 292.16, and made by the decedent within three years of the decedent's date of death; less

(iii)(A) the value of qualified small business property under section 291.03, subdivision 9, and the value of qualified farm property under section 291.03, subdivision 10, or (B) $4,000,000, whichever is less.

(5) "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.

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

(7) "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.

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

(9) "Situs of property" means, with respect to:

(i) real property, the state or country in which it is located;

(ii) tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death or for a gift of tangible personal property within three years of death, the state or country in which it was normally kept or located when the gift was executed; and

(iii) intangible personal property, the state or country in which the decedent was domiciled at death or for a gift of intangible personal property within three years of death, the state or country in which the decedent was domiciled when the gift was executed.

For a nonresident decedent with an ownership interest in a pass-through entity with assets that include real or tangible personal property, situs of the real or tangible personal property is determined as if the pass-through entity does not exist and the real or tangible personal property is personally owned by the decedent. If the pass-through entity is owned by a person or persons in addition to the decedent, ownership of the property is attributed to the decedent in proportion to the decedent's capital ownership share of the pass-through entity.

(10) "Pass-through entity" includes the following:

(i) an entity electing S corporation status under section 1362 of the Internal Revenue Code;

(ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

(iii) a single-member limited liability company or similar entity, regardless of whether it is taxed as an association or is disregarded for federal income tax purposes under Code of Federal Regulations, title 26, section 301.7701-3; or

(iv) a trust to the extent the property is includible in the decedent's federal gross estate.

Subd. 2. **Incorporation by reference of Uniform Probate Code definitions.** 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; 1989 c 28 s 23; 1990 c 604 art 2 s 16; 1991 c 291 art 6 s 46; 1992 c 511 art 6 s 19; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1995 c 264 art 1 s 4; 1996 c 471 art 4 s 5; 1997 c 231 art 6 s 22; 1998 c 389 art 7 s 11; 1999 c 243 art 3 s 6; 2000 c 490 art 12 s 5; 1Sp2001 c 5 art 10 s 10; 2002 c 377 art 12 s 11; 2003 c 127 art 3 s 16; 2005 c 151 art 6 s 19; 2006 c 259 art 2 s 8; 2008 c 154 art 4 s 9; 2009 c 12 art 1 s 11; 2009 c 88 art 1 s 13; 2010 c 216 s 15; 2010 c 334 s 2; 1Sp2011 c 7 art 1 s 3; art 2 s 9; 2013 c 143 art 7 s 4*

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.** (a) The tax imposed shall be an amount equal to the proportion of the maximum credit for state death taxes computed under section 2011 of the Internal Revenue Code, but using Minnesota adjusted taxable estate instead of federal adjusted taxable estate, as the Minnesota gross estate bears to the value of the federal gross estate. The tax is reduced by:

(1) the gift tax paid by the decedent under section 292.17 on gifts included in the Minnesota adjusted taxable estate and not subtracted as qualified farm or small business property; and

(2) any credit allowed under subdivision 1c.

(b) The tax determined under this subdivision must not be greater than the sum of the following amounts multiplied by a fraction, the numerator of which is the Minnesota gross estate and the denominator of which is the federal gross estate:

(1) the rates and brackets under section 2001(c) of the Internal Revenue Code multiplied by the sum of:

(i) the taxable estate, as defined under section 2051 of the Internal Revenue Code; plus

(ii) adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue Code; less

(iii) the lesser of (A) the sum of the value of qualified small business property under subdivision 9, and the value of qualified farm property under subdivision 10, or (B) $4,000,000; less

(2) the amount of tax allowed under section 2001(b)(2) of the Internal Revenue Code; and less

(3) the federal credit allowed under section 2010 of the Internal Revenue Code.

(c) For purposes of this subdivision, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 2000.

Subd. 1a. **Expenses disallowed.** For the purposes of this section, expenses which are deducted for federal income tax purposes under section 642(g) of the Internal Revenue Code are not allowable in computing the tax under this chapter.

Subd. 1b. **Qualified terminable interest property.** For estates of decedents dying after December 31, 2009, and before January 1, 2011, if a federal election under section 301(c) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312, is made, the executor may make a qualified terminable interest property election, as defined in section 2056(b)(7) of the Internal Revenue Code, for purposes of computing the tax under this chapter. The election may not reduce the taxable estate under this chapter below $3,500,000. The election must be made on the tax return under this chapter and is irrevocable. All tax under this chapter must be determined using the qualified terminable interest property election made on the Minnesota return. For purposes of applying sections 2044 and 2207A of the Internal Revenue Code when computing the tax under this chapter for the estate of the decedent's surviving spouse, regardless of the date of death of the surviving spouse, amounts for which a qualified terminable interest property election has been made under this section must be treated as though a valid federal qualified terminable interest property election under section 2056(b)(7) of the Internal Revenue Code has been made.

Subd. 1c. **Nonresident decedent tax credit.** (a) The estate of a nonresident decedent that is subject to tax under this chapter on the value of Minnesota situs property held in a pass-through entity is allowed a credit against the tax due under this section equal to the lesser of:

(1) the amount of estate or inheritance tax paid to another state that is attributable to the Minnesota situs property held in the pass-through entity; or

(2) the amount of tax paid under this section attributable to the Minnesota situs property held in the pass-through entity.

(b) The amount of tax attributable to the Minnesota situs property held in the pass-through entity must be determined by the increase in the estate or inheritance tax that results from including the market value of the property in the estate or treating the value as a taxable inheritance to the recipient of the property.

Subd. 2. [Repealed, 2002 c 377 art 12 s 18]

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]

Subd. 8. **Definitions.** (a) For purposes of this section, the following terms have the meanings given in this subdivision.

(b) "Family member" means a family member as defined in section 2032A(e)(2) of the Internal Revenue Code, or a trust whose present beneficiaries are all family members as defined in section 2032A(e)(2) of the Internal Revenue Code.

(c) "Qualified heir" means a family member who acquired qualified property upon the death of the decedent and satisfies the requirement under subdivision 9, clause (7), or subdivision 10, clause (5), for the property.

(d) "Qualified property" means qualified small business property under subdivision 9 and qualified farm property under subdivision 10.

Subd. 9. **Qualified small business property.** Property satisfying all of the following requirements is qualified small business property:

(1) The value of the property was included in the federal adjusted taxable estate.

(2) The property consists of the assets of a trade or business or shares of stock or other ownership interests in a corporation or other entity engaged in a trade or business. Shares of stock in a corporation or an ownership interest in another type of entity do not qualify under this subdivision if the shares or ownership interests are traded on a public stock exchange at any time during the three-year period ending on the decedent's date of death. For purposes of this subdivision, an ownership interest includes the interest the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code.

(3) During the taxable year that ended before the decedent's death, the trade or business must not have been a passive activity within the meaning of section 469(c) of the Internal

Revenue Code, and the decedent or the decedent's spouse must have materially participated in the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Treasury Department regulation that substitutes material participation in prior taxable years for material participation in the taxable year that ended before the decedent's death.

(4) The gross annual sales of the trade or business were $10,000,000 or less for the last taxable year that ended before the date of the death of the decedent.

(5) The property does not consist of cash, cash equivalents, publicly traded securities, or assets not used in the operation of the trade or business. For property consisting of shares of stock or other ownership interests in an entity, the value of cash, cash equivalents, publicly traded securities, or assets not used in the operation of the trade or business held by the corporation or other entity must be deducted from the value of the property qualifying under this subdivision in proportion to the decedent's share of ownership of the entity on the date of death.

(6) The decedent continuously owned the property, including property the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code, for the three-year period ending on the date of death of the decedent. In the case of a sole proprietor, if the property replaced similar property within the three-year period, the replacement property will be treated as having been owned for the three-year period ending on the date of death of the decedent.

(7) For three years following the date of death of the decedent, the trade or business is not a passive activity within the meaning of section 469(c) of the Internal Revenue Code, and a family member materially participates in the operation of the trade or business within the meaning of section 469(h) of the Internal Revenue Code, excluding section 469(h)(3) of the Internal Revenue Code and any other provision provided by United States Treasury Department regulation that substitutes material participation in prior taxable years for material participation in the three years following the date of death of the decedent.

(8) The estate and the qualified heir elect to treat the property as qualified small business property and agree, in the form prescribed by the commissioner, to pay the recapture tax under subdivision 11, if applicable.

Subd. 10. **Qualified farm property.** Property satisfying all of the following requirements is qualified farm property:

(1) The value of the property was included in the federal adjusted taxable estate.

(2) The property consists of agricultural land and is owned by a person or entity that is either not subject to or is in compliance with section 500.24.

(3) For property taxes payable in the taxable year of the decedent's death, the property is classified as class 2a property under section 273.13, subdivision 23, and is classified as agricultural homestead, agricultural relative homestead, or special agricultural homestead under section 273.124.

(4) The decedent continuously owned the property, including property the decedent is deemed to own under sections 2036, 2037, and 2038 of the Internal Revenue Code, for the three-year period ending on the date of death of the decedent either by ownership of the agricultural land or pursuant to holding an interest in an entity that is not subject to or is in compliance with section 500.24.

(5) The property is classified for property tax purposes as class 2a property under section 273.13, subdivision 23, for three years following the date of death of the decedent.

(6) The estate and the qualified heir elect to treat the property as qualified farm property and agree, in a form prescribed by the commissioner, to pay the recapture tax under subdivision 11, if applicable.

Subd. 11. **Recapture tax.** (a) If, within three years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of any interest in the qualified property, other than by a disposition to a family member, or a family member ceases to satisfy the requirement under subdivision 9, clause (7); or 10, clause (5), an additional estate tax is imposed on the property. In the case of a sole proprietor, if the qualified heir replaces qualified small business property excluded under subdivision 9 with similar property, then the qualified heir will not be treated as having disposed of an interest in the qualified property.

(b) The amount of the additional tax equals the amount of the exclusion claimed by the estate under subdivision 8, paragraph (d), multiplied by 16 percent.

(c) The additional tax under this subdivision is due on the day which is six months after the date of the disposition or cessation in paragraph (a).

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; 2002 c 377 art 12 s 12; 2002 c 400 s 11; 2003 c 127 art 3 s 17; 2005 c 151 art 6 s 20; 2008 c 366 art 4 s 15,16; 2010 c 334 s 3; 2011 c 112 art 2 s 4; 1Sp2011 c 7 art 1 s 4-8; 2013 c 143 art 7 s 5-10*

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 [Repealed, 1990 c 480 art 1 s 45]

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

291.11 [Repealed, 1990 c 480 art 1 s 45]

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 BY REPRESENTATIVE OR TRUSTEE.

Subdivision 1. **Requirement.** 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. **Liability.** 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. **Effect on duty to transfer or deliver property.** 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. **Requirement.** All taxes imposed by this chapter shall be paid to the commissioner.

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

Subd. 3. **Deposit in general fund.** 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 [Repealed, 1990 c 480 art 1 s 45]

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

291.14 [Repealed, 1990 c 480 art 1 s 45]

291.15 Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

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

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

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. **Rights of commissioner.** 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.

Subdivision 1. **Determination.** 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. The value of all property includable in the Minnesota gross estate of a decedent may be independently determined under those sections for Minnesota estate tax purposes except:

(1) as otherwise provided in section 291.075; or

(2) if the Internal Revenue Service, after receiving the estate's federal estate tax return, either conducts a separate appraisal of an asset reported on the return or proposes a change in the reported valuation of an asset in the estate, in which case the federal final determination of the value controls.

Subd. 2. [Repealed, 1990 c 480 art 1 s 45]

Subd. 3. [Repealed, 1990 c 480 art 1 s 45]

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; 2008 c 154 art 7 s 1*

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 Subdivision 1. [Repealed, 1990 c 480 art 1 s 45]

Subd. 2. [Repealed, 1990 c 480 art 2 s 18]

291.32 [Repealed, 1990 c 480 art 1 s 45]

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. **Scope.** 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 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.** "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.

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 court having probate jurisdiction 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; 1995 c 189 s 8; 1996 c 277 s 1*

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 [Repealed, 1989 c 184 art 1 s 20]