

CHAPTER 292

GIFT TAXES

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292.01 [Repealed, 1979 c 303 art 3 s 41]

292.02 [Repealed, 1979 c 303 art 3 s 41]

292.03 [Repealed, 1979 c 303 art 3 s 41]

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292.04 [Repealed, 1979 c 303 art 3 s 41]

292.05 [Repealed, 1979 c 303 art 3 s 41]

292.06 [Repealed, 1979 c 303 art 3 s 41]

292.07 [Repealed, 1979 c 303 art 3 s 41]

292.08 [Repealed, 1979 c 303 art 3 s 41]

292.09 [Repealed, 1979 c 303 art 3 s 41]

292.10 [Repealed, 1963 c 664 s 8]

292.105 [Repealed, 1979 c 303 art 3 s 41]

292.11 [Repealed, 1975 c 377 s 41]

292.111 [Repealed, 1979 c 303 art 3 s 41]

292.112 [Repealed, 1979 c 303 art 3 s 41]

292.12 [Repealed, 1979 c 303 art 3 s 41]

292.125 [Repealed, 1979 c 303 art 3 s 41]

292.13 [Repealed, 1947 c 532 s 2]

292.14 [Repealed, 1979 c 303 art 3 s 41]

292.15 [Repealed, 1979 c 303 art 3 s 41]

292.16 DEFINITIONS.

- (a) For purposes of this chapter, the following definitions apply.
- (b) The definitions of terms defined in section 291.005 apply.
- (c) "Resident" has the meaning given in section 290.01, subdivision 7, paragraph (a).
- (d) "Taxable gifts" means:

(1) the transfers by gift which are included in taxable gifts for federal gift tax purposes under the following sections of the Internal Revenue Code:

- (i) section 2503;
 - (ii) sections 2511 to 2514; and
 - (iii) sections 2516 to 2519; less
- (2) the deductions allowed in sections 2522 to 2524 of the Internal Revenue Code.

History: 2013 c 143 art 7 s 11

292.17 GIFT TAX.

Subdivision 1. **Imposition.** (a) A tax is imposed on the transfer of property by gift by any individual resident or nonresident in an amount equal to ten percent of the amount of the taxable gift.

(b) The donor is liable for payment of the tax. If the gift tax is not paid when due, the donee of any gift is personally liable for the tax to the extent of the value of the gift.

Subd. 2. **Lifetime credit.** A credit is allowed against the tax imposed under this section equal to \$100,000. This credit applies to the cumulative amount of taxable gifts made by the donor during the donor's lifetime.

Subd. 3. **Out-of-state gifts.** Taxable gifts exclude the transfer of:

- (1) real property located outside of this state;
- (2) tangible personal property that was normally kept at a location outside of the state on the date the gift was executed; and
- (3) intangible personal property made by an individual who is not a resident at the time the gift was executed.

History: 2013 c 143 art 7 s 12

292.18 RETURNS.

(a) Any individual who makes a taxable gift during the taxable year shall file a gift tax return in the form and manner prescribed by the commissioner.

(b) If the donor dies before filing the return, the executor of the donor's will or the administrator of the donor's estate shall file the return. If the donor becomes legally incompetent before filing the return, the guardian or conservator shall file the return.

(c) The return must include:

- (1) each gift made during the calendar year which is to be included in computing the taxable gifts;
- (2) the deductions claimed and allowable under section 292.16, paragraph (d), clause (2);
- (3) a description of the gift, and the donee's name, address, and Social Security number;
- (4) the fair market value of gifts not made in money; and
- (5) any other information the commissioner requires to administer the gift tax.

History: 2013 c 143 art 7 s 13

292.19 FILING REQUIREMENTS.

Gift tax returns must be filed by the April 15 following the close of the calendar year, except if a gift is made during the calendar year in which the donor dies, the return for the donor must be filed by the last date, including extensions, for filing the gift tax return for federal gift tax purposes for the donor.

History: 2013 c 143 art 7 s 14

292.20 APPRAISAL OF PROPERTY; DECLARATION BY DONOR.

The commissioner may require the donor or the donee to show the property subject to the tax under section 292.17 to the commissioner upon demand and may employ a suitable person to appraise the property. The donor shall submit a declaration, in a form prescribed by the commissioner and including any certification required by the commissioner, that the property shown by the donor on the gift tax return includes all of the property transferred by gift for the calendar year and not deductible under section 292.16, paragraph (d), clause (2).

History: 2013 c 143 art 7 s 15

292.21 ADMINISTRATIVE PROVISIONS.

Subdivision 1. **Payment of tax; penalty for late payment.** The tax imposed under section 292.17 is due and payable to the commissioner by the April 15 following the close of the calendar year during which the gift was made. The return required under section 292.19 must be included with the payment. If a taxable gift is made during the calendar year in which the donor dies, the due date is the last date, including extensions, for filing the gift tax return for federal gift tax purposes for the donor. If any person fails to pay the tax due within the time specified under this section, a penalty applies equal to ten percent of the amount due and unpaid or \$100, whichever is greater. The unpaid tax and penalty bear interest at the rate under section 270C.40 from the due date of the return.

Subd. 2. **Extensions.** The commissioner may, for good cause, extend the time for filing a gift tax return, if a written request is filed with a tentative return accompanied by a payment of the tax, which is estimated in the tentative return, on or before the last day for filing the return. Any person to whom an extension is granted must pay, in addition to the tax, interest at the rate under section 270C.40 from the date on which the tax would have been due without the extension.

Subd. 3. **Changes in federal gift tax.** If the amount of a taxpayer's taxable gifts for federal gift tax purposes, as reported on the taxpayer's federal gift tax return for any calendar year, is changed or corrected by the Internal Revenue Service or other officer of the United States or other competent authority, the taxpayer shall report the change or correction in federal taxable gifts within 180 days after the final determination of the change or correction, and concede the accuracy of the determination or provide a letter detailing how the federal determination is incorrect or does not change the Minnesota gift tax. Any taxpayer filing an amended federal gift tax return shall also file within 180 days an amended return under this chapter and shall include any information the commissioner requires. The time for filing the report or amended return may be extended by the commissioner upon due cause shown. Notwithstanding any limitation of time in this chapter, if, upon examination, the commissioner finds that the taxpayer is liable for the payment of an additional tax, the commissioner shall, within a reasonable time from the receipt of the report or amended return, notify the taxpayer of the amount of additional tax, together with interest computed at the rate under section 270C.40 from the date when the original tax was due and payable. Within 30 days of the mailing of the notice, the taxpayer shall pay the commissioner

the amount of the additional tax and interest. If, upon examination of the report or amended return and related information, the commissioner finds that the taxpayer has overpaid the tax due the state, the commissioner shall refund the overpayment to the taxpayer.

Subd. 4. **Application of federal rules.** In administering the tax under this chapter, the commissioner shall apply the provisions of sections 2701 to 2704 of the Internal Revenue Code. The words "secretary or his delegate," as used in those sections of the Internal Revenue Code, mean the commissioner.

History: 2013 c 143 art 7 s 16