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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 350

01/17/2023 Authored by Torkelson, Davids and Anderson, P. H., The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; estate; providing for portability of the deceased spousal unused
1.3 exclusion amount; amending Minnesota Statutes 2022, sections 289A.10,
1.4 subdivision 1; 291.016, subdivision 3; 291.03, subdivision 1, by adding a
1.5 subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 289A.10, subdivision 1, is amended to read:

1.8 Subdivision 1. Return required. (a) In the case of a decedent who has an interest in
1.9 property with a situs in Minnesota, the personal representative must submit a Minnesota
1.10 estate tax return to the commissioner, on a form prescribed by the commissioner, if:

1.11 (1) a federal estate tax return is required to be filed; or

1.12 (2) the sum of the federal gross estate and federal adjusted taxable gifts, as defined in
1.13 section 2001(b) of the Internal Revenue Code, made within three years of the date of the
1.14 decedent's death exceeds \$1,200,000 for estates of decedents dying in 2014; \$1,400,000 for
1.15 estates of decedents dying in 2015; \$1,600,000 for estates of decedents dying in 2016;
1.16 \$2,100,000 for estates of decedents dying in 2017; \$2,400,000 for estates of decedents dying
1.17 in 2018; \$2,700,000 for estates of decedents dying in 2019; and \$3,000,000 for estates of
1.18 decedents dying in 2020 and thereafter.

1.19 (b) The return must contain a computation of the Minnesota estate tax due. The return
1.20 must be signed by the personal representative.

1.21 (c) The return may include an election, as provided in section 291.03, subdivision 1e,
1.22 to allow a decedent's surviving spouse to take into account the decedent's deceased spousal
1.23 unused exclusion amount.

2.1 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after June  
 2.2 30, 2022.

2.3 Sec. 2. Minnesota Statutes 2022, section 291.016, subdivision 3, is amended to read:

2.4 Subd. 3. **Subtraction.** (a) ~~For estates of decedents dying after December 31, 2016,~~ A  
 2.5 subtraction is allowed in computing the Minnesota taxable estate, equal to the sum of:

2.6 (1) ~~the an~~ exclusion amount ~~for the year of death under paragraph (b)~~ of \$3,000,000;  
 2.7 and

2.8 ~~(2) the lesser of:~~

2.9 ~~(i) (2) the value of qualified small business property under section 291.03, subdivision~~  
 2.10 ~~9, and the value of qualified farm property under section 291.03, subdivision 10; or, up to~~  
 2.11 \$2,000,000.

2.12 ~~(ii) \$5,000,000 minus the exclusion amount for the year of death under paragraph (b).~~

2.13 ~~(b) The following exclusion amounts apply for the year of death:~~

2.14 ~~(1) \$2,100,000 for decedents dying in 2017;~~

2.15 ~~(2) \$2,400,000 for decedents dying in 2018;~~

2.16 ~~(3) \$2,700,000 for decedents dying in 2019; and~~

2.17 ~~(4) \$3,000,000 for decedents dying in 2020 and thereafter.~~

2.18 (b) In the case of a decedent that is a surviving spouse there is an additional subtraction  
 2.19 allowed in computing the Minnesota taxable estate, a deceased spousal unused exclusion  
 2.20 amount, which is equal to the lesser of:

2.21 (1) \$3,000,000; or

2.22 (2) the excess of \$3,000,000 over the amount of the Minnesota taxable estate of the last  
 2.23 predeceased spouse of the decedent, but not including in the taxable estate property described  
 2.24 in section 291.03, subdivisions 9 and 10, but in no case less than zero.

2.25 (c) The subtraction under this subdivision must not reduce the Minnesota taxable estate  
 2.26 to less than zero.

2.27 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after June  
 2.28 30, 2022.

3.1 Sec. 3. Minnesota Statutes 2022, section 291.03, subdivision 1, is amended to read:

3.2 Subdivision 1. **Tax amount.** The tax imposed must be computed by applying to the  
 3.3 Minnesota taxable estate the following schedule of rates and then multiplying the resulting  
 3.4 amount ~~multiplied~~ by a fraction, not greater than one, the numerator of which is the value  
 3.5 of the Minnesota gross estate plus the value of gifts under section 291.016, subdivision 2,  
 3.6 clause (3), with a Minnesota situs, and the denominator of which is the federal gross estate  
 3.7 plus the value of gifts under section 291.016, subdivision 2, clause (3):

3.8 ~~(a) For estates of decedents dying in 2017:~~

3.9	Amount of Minnesota Taxable Estate	Rate of Tax
3.10	Not over \$5,100,000	<del>12 percent</del>
3.11	<del>Over \$5,100,000 but not over \$7,100,000</del>	<del>\$612,000 plus 12.8 percent of the excess over</del>
3.12		<del>\$5,100,000</del>
3.13	<del>Over \$7,100,000 but not over \$8,100,000</del>	<del>\$868,000 plus 13.6 percent of the excess over</del>
3.14		<del>\$7,100,000</del>
3.15	<del>Over \$8,100,000 but not over \$9,100,000</del>	<del>\$1,004,000 plus 14.4 percent of the excess</del>
3.16		<del>over \$8,100,000</del>
3.17	<del>Over \$9,100,000 but not over \$10,100,000</del>	<del>\$1,148,000 plus 15.2 percent of the excess</del>
3.18		<del>over \$9,100,000</del>
3.19	<del>Over \$10,100,000</del>	<del>\$1,300,000 plus 16 percent of the excess over</del>
3.20		<del>\$10,100,000</del>

3.21 ~~(b) For estates of decedents dying in 2018 and thereafter:~~

3.22	Amount of Minnesota Taxable Estate	Rate of Tax
3.23	Not over \$7,100,000	13 percent
3.24	Over \$7,100,000 but not over \$8,100,000	\$923,000 plus 13.6 percent of the excess over
3.25		\$7,100,000
3.26	Over \$8,100,000 but not over \$9,100,000	\$1,059,000 plus 14.4 percent of the excess
3.27		over \$8,100,000
3.28	Over \$9,100,000 but not over \$10,100,000	\$1,203,000 plus 15.2 percent of the excess
3.29		over \$9,100,000
3.30	Over \$10,100,000	\$1,355,000 plus 16 percent of the excess over
3.31		\$10,100,000

3.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.33 Sec. 4. Minnesota Statutes 2022, section 291.03, is amended by adding a subdivision to  
 3.34 read:

3.35 **Subd. 1e. Election of portability of deceased spousal unused exclusion amounts;**  
 3.36 **election irrevocable; deemed elections.** (a) A personal representative of a decedent's estate  
 3.37 may elect, on a return required under section 289A.10, subdivision 1, to allow a decedent's  
 3.38 surviving spouse to take into account the decedent's deceased spousal unused exclusion  
 3.39 amount, as provided in section 291.016, subdivision 3, paragraph (b).

4.1 (b) In order for a surviving spouse to take into account the decedent's deceased spousal  
4.2 unused exclusion amount as provided in section 291.016, subdivision 3, paragraph (b), a  
4.3 personal representative of a decedent's estate must file a return and make the portability  
4.4 election under paragraph (a). The return is subject to the same provisions as a return required  
4.5 under section 289A.10, subdivision 1.

4.6 (c) An election under paragraph (a) or (b) is irrevocable. The personal representative of  
4.7 a decedent's estate must state affirmatively on the return that the decedent's estate is electing  
4.8 portability. The commissioner may prescribe the form of the election on the return.

4.9 **EFFECTIVE DATE.** This section is effective for estates of decedents dying after June  
4.10 30, 2022.