

(b) The transporting vehicle otherwise complies with equipment requirements and length, height and weight limitations prescribed by this chapter;

(c) The movement is made after the hour of sunrise and not later than 30 minutes after sunset;

(d) The movement is not made when visibility is impaired by weather, fog or other conditions rendering persons and vehicles not clearly visible at a distance of 500 feet, or on Sundays and holidays;

(e) The transporting vehicle shall display at the front and rear end of the load or vehicle a pair of flashing amber lights, as provided in section 169.59, subdivision 4; and

(f) The movement, if made on a trunk highway, is made on a trunk highway with a surfaced roadway width of not less than 24 feet.

The fee for an annual permit is \$24.

Sec. 2. EFFECTIVE DATE. This act is effective the day following final enactment.

Approved April 3, 1980

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#### CHAPTER 439—S.F.No. 1789

*An act relating to taxation; estate tax; making technical adjustments and clarifying certain provisions; amending Minnesota Statutes 1978, Sections 290.077, Subdivision 4; 291.07, Subdivision 3; 291.111, Subdivision 2; 291.15; 291.18; 291.32, Subdivision 1; 291.33, by adding a subdivision; 501.211, Subdivision 3, and by adding a subdivision; 524.3-505; 524.3-1003; 525.532, Subdivision 3; and Minnesota Statutes, 1979 Supplement, Sections 290.01, Subdivision 20; 290.14; 291.005, Subdivision 1; 291.01; 291.015; 291.03; 291.05; 291.051; 291.06; 291.07, Subdivision 1; 291.075; 291.09, Subdivisions 1a and 4a; 291.11, Subdivision 1; 291.132; 291.14; 291.215, Subdivision 1; 291.33, Subdivision 1; 291.48; 524.3-105; and 524.3-1001; repealing Minnesota Statutes 1978, Sections 291.17; 291.19, Subdivisions 1, 2 and 4; 291.20, Subdivision 4; and Minnesota Statutes, 1979 Supplement, Sections 291.111, Subdivision 1; and 291.19, Subdivision 3.*

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

Section 1. Minnesota Statutes, 1979 Supplement, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of,

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or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of this chapter at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

The amendments made to sections 219(c) (3) and 220(c) (4) (extending the time for which a taxpayer is deemed to have made a contribution to an individual retirement account for the taxable year) by section 157(a) of P.L. 95-600 shall be effective for taxable years beginning after December 31, 1977.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24;

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(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101;

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses realized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota; and

(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 50 per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

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(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses:

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability:

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954, as amended through December 31, 1977. The maximum amount of this subtraction shall be \$10,000 less the amount by which the individual's federal adjusted gross income exceeds \$17,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$10,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000:

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter:

(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain realized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights:

(9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later:

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60:

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(11) The amount of gain on the sale of the taxpayer's residence excluded from the federal gross income of the taxpayer pursuant to section 121 of the Internal Revenue Code of 1954, as amended through December 31, 1978 provided that a taxpayer who elects under that section shall not, for the purpose of this subdivision, also take an exclusion according to the provisions of section 121 of the Internal Revenue Code, as amended through December 31, 1976;

(12) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota; and

(13) The amount of any income earned for personal services rendered prior to the date when the taxpayer became a resident of Minnesota.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods

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of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance or estate tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1978, Section 290.077, Subdivision 4, is amended to read:

**Subd. 4. DEDUCTION FOR FEDERAL ESTATE TAX AND MINNESOTA INHERITANCE OR ESTATE TAX. (1) ALLOWANCE OF DEDUCTION; FEDERAL ESTATE TAX. (A) GENERAL RULE.** A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the estate tax attributable to the net value for estate tax purposes of all the items described in subdivision 1, as the value for estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for estate tax purposes of all the items described in subdivision 1.

**(B) ESTATES AND TRUSTS.** In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent, as is provided in section 290.23, subdivision 5.

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(2) **METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (1) of this subdivision

(A) The term "estate tax" means the tax imposed on the estate of the decedent or any prior decedent under the Internal Revenue Code of 1954, as amended through December 31, 1976 section 2001 or 2101, reduced by the credits against such tax.

(B) The net value for estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for estate tax purposes of all the items described in subdivision 1, over the deductions from the gross estate in respect of claims which represent the deductions and credit described in subdivision 2. Such net value shall be determined with regard to the provisions of the Internal Revenue Code of 1954, as amended through December 31, 1976, section 421(d) (6) (B), relating to the deduction for estate tax with respect to restricted stock options.

(C) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate such net value.

(3) **ALLOWANCE OF DEDUCTION; MINNESOTA INHERITANCE OR ESTATE TAX.** (A) **GENERAL RULE.** A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the Minnesota inheritance or estate tax attributable to the net value for inheritance or estate tax purposes of all the items described in subdivision 1, as the value for inheritance or estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance or estate tax purposes of all the items described in subdivision 1.

(B) **ESTATES AND TRUSTS.** In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent as is provided in section 290.23, subdivision 5.

(4) **METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (3) of this subdivision

(A) (i) The term "inheritance tax" means the tax imposed on the estate of the decedent or any prior decedent under chapter 294 estates of decedents dying before January 1, 1980, reduced by the credits against such tax; (ii) The term "estate tax" means the tax imposed on the estates of decedents dying on or after January 1, 1980, reduced by the credits against the tax.

(B) The net value for inheritance or estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for inheritance or



estate tax purposes of all the items described in subdivision 1, over the deductions from the gross inheritance or gross estate in respect of claims which represent the deductions and credit described in subdivision 2.

(C) (i) The inheritance tax attributable to such net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax computed without including in the gross inheritance such net value; (ii) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate the net value.

Sec. 3. Minnesota Statutes, 1979 Supplement, Section 290.14, is amended to read:

**290.14 GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.** The basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) Except as otherwise provided in this clause, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of decedent's death.

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(b) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(c) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the

enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate for Minnesota inheritance or estate tax purposes. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause.

This clause shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivision 1, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, subdivision 5, the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 290.08, subdivision 14.

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

(9) If the property was acquired by the taxpayer as a transfer of property in exchange for the release of the taxpayer's marital rights, the basis of the property shall be the same as it would be if it were being sold or otherwise disposed of by the person who transferred the property to the taxpayer.

Sec. 4. Minnesota Statutes, 1979 Supplement, Section 291.005, Subdivision 1, is amended to read:

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. The Minnesota gross estate shall be valued pursuant to the provisions of section 291.215, subdivision 1.

(2) (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 such property and the Minnesota estate tax due with respect to such property.

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~~(3)~~ (4) "Resident decedent" means an individual whose ~~residence~~ domicile at the time of his death was in Minnesota.

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

~~(5)~~ (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 a ~~resident~~ domiciled at death.

~~(6)~~ (7) "Commissioner" means the commissioner of revenue or any person to whom he may have delegated his functions under this chapter.

~~(7)~~ (8) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended through December 31, 1978.

Sec. 5. Minnesota Statutes, 1979 Supplement, Section 291.01, is amended to read:

291.01 **TAX IMPOSED.** A tax is hereby imposed upon the transfer of ~~the Minnesota taxable estate~~ estates of every ~~decedent~~ decedents as prescribed by this chapter.

Sec. 6. Minnesota Statutes, 1979 Supplement, Section 291.015, is amended to read:

291.015 **DETERMINATION OF MINNESOTA TAXABLE ESTATE.** The Minnesota taxable estate of a decedent shall be his ~~federal~~ the Minnesota gross estate as defined in Section 2031 of the ~~Internal Revenue Code~~ less the sum of:

(1) ~~The value of any gifts of real property located outside this state which are otherwise includable in the federal gross estate under Section 2035(a) of the Internal Revenue Code;~~

(2) ~~The value of property owned by the decedent at the time of his death which has its situs outside Minnesota;~~

~~(3)~~ (1) The exemptions and deductions allowed pursuant to sections 291.05, 291.051, 291.065, 291.07, and 291.08; and

(4) (2) The sum of \$200,000, provided that, in the case of a nonresident decedent, this ~~amount~~ sum shall be ~~reduced by that proportion of the value of the decedent's federal gross estate which has its situs outside of this state~~ an amount determined by multiplying \$200,000 by a fraction, the numerator of which shall be the value of the Minnesota gross estate and the denominator of which shall be the value of the federal gross estate.

Sec. 7. Minnesota Statutes, 1979 Supplement, Section 291.03, is amended to read:

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291.03 RATES. Subdivision 1. The tax hereby imposed shall be computed by applying to the Minnesota taxable estate the following prescribed rates an amount equal to the greater of:

(1) A tax computed by applying to the Minnesota taxable estate the following prescribed rates:

- 7 percent on the first \$100,000~~;~~
- 8 percent on the next \$100,000 or part thereof~~;~~
- 9 percent on the next \$100,000 or part thereof~~;~~
- 10 percent on the next \$200,000 or part thereof~~;~~
- 11 percent on the next \$500,000 or part thereof~~;~~
- 12 percent on the excess over \$1,000,000~~;~~ or

Provided that the amount of tax imposed by this chapter on the transfer of any estate shall not be less than the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to that part of the decedent's estate which has a taxable situs in this state.

(2) A tax equal to the amount by which the maximum credit allowable under section 2011 of the Internal Revenue Code for state death taxes exceeds the aggregate amount of all estate, inheritance, legacy and succession taxes actually paid to other states of the United States in respect of any property subject to federal estate tax; provided that where the decedent is a nonresident the tax shall not exceed the same proportion of the excess amount of the maximum credit for state death taxes described herein as the Minnesota gross estate bears to the value of the federal gross estate.

Subd. 2. 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.

Sec. 8. Minnesota Statutes, 1979 Supplement, Section 291.05, is amended to read:

291.05 EXEMPTIONS. The following exemptions from the tax are hereby allowed:

- (1) Any devise, bequest, gift, or transfer: (a) to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively; (b) to or for the use of any corporation, fund, foundation, trust, or association operated within this state for religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encouragement of art and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or individual or to a trustee or trustees exclusively for such purposes; (c) to an employee stock ownership trust as defined in section 290.01, subdivision

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25, provided that, if the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust; (d) to a clergyman, in an amount not exceeding \$1,000, the proceeds of which are to be used for religious purposes or rites designated by the testator; and (e) to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, education, or public cemetery purposes exclusively, including the encouragement of art, and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or any individual, or to a trustee or trustees exclusively for such purposes, if, at the date of the decedent's death, the laws of the state under the laws of which the transferee was organized or existing, either (1) did not impose a death tax of any character, in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contained a reciprocal provision under which transfers to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of another state were exempted from death taxes of every character if such other state allowed a similar exemption to a similar corporation, fund, foundation, trust, or association, organized under the laws of such state.

(2) Proceeds of any insurance policy issued by the United States and generally known as war risk insurance, United States government life insurance or national service life insurance payable upon the death of any person dying on or after June 24, 1950, ~~shall be exempt; and~~ proceeds of life insurance issued pursuant to Public Law 89-214 and generally known as servicemen's group life insurance payable upon the death of any person on or after September 1, 1965, shall be exempt.

(3) Proceeds of payments made by the United States government as compensation for the decedent's service as a member of the armed forces of the United States during a period while he was classified as missing in action prior to being declared dead, shall be exempt. The commissioner shall make refunds for inheritance taxes paid which are attributable to payments exempt pursuant to this ~~paragraph~~ clause upon the filing of a claim by each beneficiary of the estate for his portion of the inheritance tax paid. Claims for refund must be filed with the commissioner no later than July 1, 1982.

~~(3)~~ (4) Proceeds of payments from the United States railroad retirement fund; or from the United States as social security benefit or veterans burial benefit, shall be exempt.

Sec. 9. Minnesota Statutes, 1979 Supplement, Section 291.051, is amended to read:

291.051 **MARITAL DEDUCTION.** Subdivision 1. For the purpose of section 291.015, clause ~~(3)~~ (1), and subject to subdivision 2 of this section, the value of the Minnesota taxable estate shall, ~~except as limited by subsection (b) of Section 2056 of the Internal Revenue Code and by subdivision 2,~~ be determined by deducting from the value of the federal Minnesota gross estate an amount

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equal to the value of any interest in property other than a terminable interest as defined in section 2056(b) of the Internal Revenue Code, which passes or has passed from the decedent to his surviving spouse, but only to the extent that the interest has a taxable situs in this state and is included in determining the value of the federal Minnesota gross estate and is not exempt from estate tax under sections 291.05 or 291.065. An interest in property shall be considered as passing from the decedent to his surviving spouse if it is considered as so passing from the decedent to the surviving spouse under Section 2056(d) of the Internal Revenue Code.

Subd. 2. The amount of the deduction allowed under this section for a resident decedent shall not exceed the greater of:

(a) \$250,000, or

(b) 50 percent of the value of the federal Minnesota adjusted gross estate as defined in Section 2056(c)(2)(A) of the Internal Revenue Code subdivision 3, reduced, but not below zero, by an amount equal to the adjustment made, if any, for federal estate tax purposes with respect to any gift or gifts of property having situs in Minnesota made by the decedent to his spouse after December 31, 1976 under Section 2056(c)(1)(B) of the Internal Revenue Code, and further reduced by the value of any property passing from the decedent to his surviving spouse which is exempt from estate tax under section 291.065 and is included in determining the value of the federal gross estate. In the case of a nonresident decedent, the amount of the deduction allowed under this section shall be determined without reference to subpart (a) of this subdivision.

Subd. 3. For purposes of subdivision 2, clause (b), the Minnesota adjusted gross estate shall be computed by subtracting from the Minnesota gross estate the aggregate amount of deductions allowed, in the case of a resident decedent, by section 291.07, subdivision 1, clauses (1), (2), (3), (4), (5), (7) and (8), and, in the case of a nonresident decedent, by section 291.08, clauses (1), (2), (4) and (5).

Sec. 10. Minnesota Statutes, 1979 Supplement, Section 291.06, is amended to read:

291.06 CREDIT FOR PREVIOUSLY PAID TAXES. ~~(\*)~~ (1) Where property included in the Minnesota taxable estate of the present decedent can be identified as having been transferred to the decedent at death from a person who died within five years prior to the death of the decedent, or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes, exclusive of penalty or interest, paid pursuant to the provisions of Laws 1979, Chapter 303 or any inheritance tax paid pursuant to the provisions of this chapter in effect prior to the effective date of Laws 1979, Chapter 303 chapter 291 upon that property during the preceding five years in the previous decedent's estate shall be allowed upon the transfer tax at his death. This credit shall not exceed the allocable portion of the tax due with respect to that property for estate tax purposes against, but shall not exceed, the estate tax computed in accordance with section 291.03, subdivision 1, clause (1) attributable to the previously taxed

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property included in the Minnesota taxable estate of the present decedent. For purposes of this section, transfer taxes shall mean the Minnesota inheritance or estate tax or a Minnesota tax based upon the federal credit allowed for state death taxes. Where a Minnesota credit for gift tax paid was allowed to reduce the transfer taxes in the previous estate for a gift to the present decedent of property which is included in the decedent's Minnesota taxable estate, the "transfer taxes" paid in the previous decedent's estate shall be the transfer taxes actually paid plus the amount of the gift tax credit so allowed.

~~(b) (2) A credit shall also be allowed against the tax computed in accordance with section 291.03, subdivision 1, clause (1) in the amount of any gift tax exclusive of penalty or interest paid pursuant to chapter 292, if that transfer of property is subject to taxation under this chapter because it was made within three years of the decedent's death. The credit shall not exceed the amount of the estate tax imposed on the transfer pursuant to this chapter which is attributable to the property included in the Minnesota taxable estate upon which the gift tax was paid.~~

~~(3) If both credits under clauses (1) and (2) are allowed against the same asset, the credits, when added together, shall not exceed the Minnesota estate tax attributable to the inclusion of that asset in the Minnesota taxable estate.~~

~~(4) The credits allowed under clauses (1) and (2), when added together, shall not exceed the Minnesota estate tax due.~~

Sec. 11. Minnesota Statutes, 1979 Supplement, Section 291.07, Subdivision 1, is amended to read:

291.07 **DEDUCTIONS**, Subdivision 1. In determining the tax imposed by section 291.01, the following deductions shall be allowed:

(1) funeral expenses;

(2) reasonable legal, accounting, fiduciary and administration expenses and fees with respect to both probate and nonprobate assets, including but not limited to expenses incurred during administration in converting real and personal property held by the estate into cash;

(3) expenses of last illness unpaid at death;

(4) valid claims against and debts of the decedent, unpaid at death, which have been properly paid;

(5) Minnesota and federal income taxes on "income in respect of a decedent," as computed under subdivision 3;

(6) federal the portion of the federal estate taxes tax allocable to the Minnesota taxable estate. The portion of federal estate taxes allocable to the Minnesota taxable estate, which shall be equal to the amount obtained by multiplying the total federal estate tax due and payable to the United States Treasury by a fraction, the numerator of which is shall equal the value of the Minnesota taxable gross estate plus the amount of the federal estate tax on the estate of the

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decedent and the denominator of which is the federal taxable estate for federal estate tax purposes; reduced by: (a) in the case of a resident decedent, the deductions and exemptions allowed by sections 291.05, 291.051, 291.065, 291.07, subdivision 1, clauses (1), (2), (3), (4), (5), (7) and (8); or (b) in the case of a nonresident decedent the deductions and exemptions allowed by sections 291.05, 291.051, 291.065, 291.08, clauses (1), (2), (4) and (5), and the denominator of which shall equal the value of the federal taxable estate as defined in section 2051 of the Internal Revenue Code; provided, however, in any case where any property is included in the Minnesota gross estate but incorrectly omitted from the federal gross estate or where any property that is included in both the Minnesota gross estate and the federal gross estate is valued at a higher or lower value in determining the Minnesota gross estate than in determining the federal gross estate, the federal taxable estate shall be recomputed for purposes of this provision and shall be based on a federal gross estate including the value of such omitted property and including or excluding the difference in value of such revalued property, and further provided that the federal estate tax deduction shall not exceed the federal estate tax due and payable to the United States Treasury;

(7) real estate taxes due and payable prior to or in the year of the decedent's death with respect to real estate subject to taxation under this chapter and other taxes which have accrued and are a lien on property in the estate at the time of death;

(8) liens and mortgages on property subject to taxation under this chapter which are not deductible as claims or debts of the decedent.

Sec. 12. Minnesota Statutes 1978, Section 291.07, Subdivision 3, is amended to read:

Subd. 3. ~~(a)~~ (1) The Minnesota and federal income tax allowed as deductions under subdivision 1, clause ~~(10)~~ and subdivision 2, clause ~~(7)~~ (5) shall be computed as follows: The table of rates required to be used by single taxpayers who itemize their allowable deductions shall be applied to the "income in respect of a decedent" as though such "income in respect of a decedent" constituted the entire income of the decedent taxable after giving effect to all allowable deductions. The amount of Minnesota or federal income tax as so computed shall not be diminished by any credits allowable by Minnesota or federal income tax laws.

~~(b)~~ (2) The deductions allowed herein shall be the only deductions allowed under this chapter for "income in respect of a decedent," without regard to the actual liability for income taxes that may be due and payable subsequently with respect to such "income in respect of a decedent."

Sec. 13. Minnesota Statutes, 1979 Supplement, Section 291.075, is amended to read:

291.075 **SPECIAL USE VALUATION OF QUALIFIED PROPERTY.** When property subject to the tax imposed by this chapter qualifies for valuation based on its use pursuant to section 2032A of the Internal Revenue Code, it shall have the same value for Minnesota estate tax purposes as it has for federal estate

tax purposes. 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, clause (2). No additional Minnesota estate tax computed in accordance with section 291.03, subdivision 1, clause (1) will be imposed nor will an additional deduction for federal estate taxes paid be allowed under section 291.07 or 291.08.

Sec. 14. Minnesota Statutes, 1979 Supplement, Section 291.09, Subdivision 1a, is amended to read:

Subd. 1a. In all instances in which a ~~resident~~ decedent dies after December 31, 1979 and before January 1, 1981 leaving a federal gross estate in excess of \$161,000 and in all instances in which a ~~resident~~ decedent dies after December 31, 1980 leaving a federal gross estate in excess of \$175,000, and the decedent has an interest in property with a situs in Minnesota, ~~and in all instances in which a nonresident decedent has a liability under this chapter,~~ the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return. The return shall be accompanied by a federal estate tax return and shall contain a computation of the Minnesota estate tax due. The return shall be signed by the personal representative.

Sec. 15. Minnesota Statutes, 1979 Supplement, Section 291.09, Subdivision 4a, is amended to read:

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.

Sec. 16. Minnesota Statutes 1978, Section 291.111, Subdivision 2, is amended to read:

Subd. 2. An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part if said interest is disclaimed pursuant to sections 501.214 or 525.532 ~~provided:~~

(1) ~~The surviving spouse has, pursuant to section 525.212, refused to accept the provisions of the will and has elected to take the statutory share under section 525.16; but such statutory share shall not be deemed disclaimed unless such surviving spouse makes a timely disclaimer thereof.~~

(2) ~~In a controversy over the will, the court has made its order decreeing the property in a manner as provided by the will; or the court has approved a~~

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settlement between the parties claiming adversely to each other, and the property has been decreed by the court in a manner other than as provided by the will. Nothing contained herein shall be construed as making any settlement between the parties effective as a disclaimer, unless the court issues its decree of distribution in accordance with such settlement.

(2) (a) The survivor or survivors of a bank deposit or certificate of deposit held in the names of the decedent and such survivor or survivors has authorized the inclusion of the proceeds of such bank deposit or certificate of deposit in the inventory and appraisal required to be filed by the representative or executor of the estate of such decedent pursuant to law.

(b) For purposes of this clause, a bank deposit or certificate shall include a checking account or savings account in a banking institution as defined in section 48.01, subdivision 2, or in a federal savings and loan association, or in any other savings institution authorized to accept deposits 2045 and 2518 of the Internal Revenue Code.

Sec. 17. Minnesota Statutes, 1979 Supplement, Section 291.11, Subdivision 1, is amended to read:

**291.11 TIME EFFECTIVE.** Subdivision 1. **UPON DEATH; TIME OF ASSESSMENT.** (a) 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. Provided, that any taxpayer who owes at least \$5,000 in taxes may choose to pay these taxes in five equal installments over a period of time not to exceed five years from the death of the person whose estate is subject to taxation or five years from the expiration of the extension granted by the commissioner pursuant to section 291.132, whichever is later. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than nine months after the death of the person whose estate is subject to taxation. If the taxpayer fails to pay an installment on time, unless it is shown that such failure is due to reasonable cause, the election shall be revoked and the entire amount of unpaid tax plus accrued interest shall be due and payable 90 days after the date on which the installment was payable.

(b) (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.

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(c) 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.

Sec. 18. Minnesota Statutes, 1979 Supplement, Section 291.132, is amended to read:

291.132 **EXTENSION TO FILE OR PAY.** Subdivision 1. The commissioner may extend the time for filing returns or making payment of the tax, without penalty, for a period not to exceed six months. In lieu of the six month extension, the commissioner may extend the time for payment of the tax, without penalty, for a period not to exceed two years if the payment of the tax would result in an undue hardship on the estate. The written request for the undue hardship extension shall be made to the commissioner no later than ~~42~~ nine months after the death of the person from whom the transfer is made. The taxpayer may elect to pay the taxes in installments as specified in section 291.11, subdivision 1, provided that the period of time for the payment of the taxes shall not exceed five years from the expiration of the extension granted by the commissioner. Where an extension of time has been granted, interest shall be payable at the rate specified in section 270.75 from the date when such payment should have been made, if no extension had been granted, until such tax is paid.

Subd. 2. In lieu of an extension provided pursuant to subdivision 1 or payment of the estate tax in installments pursuant to section 291.11 on the property which qualifies under this subdivision, the ~~commissioner~~ personal representative may elect to extend the time for payment of the tax on property which qualifies for valuation under section 291.075. The personal representative of an estate containing such property may elect to pay all or part of the tax imposed by this chapter in ~~two~~ one or more, but not to exceed ten, equal installments, provided that the maximum amount of tax which may be paid in installments pursuant to this subdivision shall be an amount which bears the same ratio to the estate's tax liability under this chapter as the value of property determined pursuant to section ~~291.09, subdivision 4~~ 291.075 and included in the Minnesota taxable estate bears to the amount of the Minnesota taxable estate. The first installment shall be paid on or before the date selected by the personal representative. The date may be no more than five years after the date prescribed by section 291.11, subdivision 1, for payment of the estate tax. Each succeeding installment shall be paid on or before that same date each year. An election under this subdivision shall be made not later than ~~the time prescribed by section 291.11 for filing of the estate tax return~~ nine months after the decedent's death and shall be made in the manner as the commissioner shall prescribe by rule.

Subd. 3. If the time for payment of estate tax has been extended under subdivision 2, interest shall be payable as provided in this subdivision.

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(a) Interest payable under section 291.15 on any unpaid portion of the amount attributable to the first five years after the date prescribed by section 291.11 for payment of the tax shall be paid annually, the first payment being due no later than 21 months after the decedent's death.

(b) Interest payable under section 291.15 on any unpaid portion of the amount attributable to any period after the five year period referred to in clause (a) shall be paid annually at the same time as, and as part of, each installment payment of the tax.

(c) *If the executor has selected a period shorter than five years under subdivision 2 the shorter period shall be substituted for five years in clauses (a) and (b).*

Subd. 4. (a) If the personal representative fails to pay a tax or interest installment on time, unless it is shown that such failure is due to reasonable cause, the election is revoked and the entire amount of unpaid tax plus accrued interest is due and payable 90 days after the date on which the installment was payable. The commissioner is not required to notify the personal representative when an installment is due.

(b) In the event of a disposition or cessation of the special use property, as defined under section 2032A (c) (1) and (7) of the Internal Revenue Code, the personal representative shall immediately notify the commissioner of such cessation, and the entire balance of the tax, plus accrued interest, attributable to that property is due and payable 90 days after the disposition or cessation.

(c) The personal representative may pay any part of the balance due prior to the installment dates elected, but, after nine months after death, may not elect new installment dates.

Sec. 19. Minnesota Statutes, 1979 Supplement, Section 291.14, is amended to read:

**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.

Sec. 20. Minnesota Statutes 1978, Section 291.15, is amended to read:

**291.15 INTEREST.** (1) If such tax is not paid within ~~42~~ nine months from the accruing thereof, interest shall be charged and collected thereon at the rate specified in section 270.75 from the due date until the date the tax is paid. 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.

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(2) In the event that the amount applied against the tax exceeds the tax as determined by the commissioner of revenue, the commissioner shall upon proper application order the refundment without interest. The commissioner of finance shall cause such refund to be paid out of the proceeds of the tax imposed by this chapter, and so much of said proceeds as are sufficient to make the refund are hereby appropriated.

Sec. 21. Minnesota Statutes 1978, Section 291.18, is amended to read:

**291.18 OVERPAYMENT OF TAX; REFUNDS; APPROPRIATION.** (1) When any tax or penalty and accrued interest thereon, imposed by this chapter shall have been paid or collected, in excess of the amount legally due, the person or corporation paying the same shall be entitled to a refundment of the amount of such taxes, penalty and interest overpaid, together with interest thereon at the rate of six percent per annum from the date of payment, or from the date beginning ~~42~~ 9 months after death of the decedent, whichever date occurs later, in the manner provided by section 291.32; provided that all applications for such refundment shall be made within two years from the date of final determination or adjustment of any part of such tax by the taxpayer and the commissioner, the probate court or the tax court, as the case may be.

(2) There is hereby appropriated to the persons entitled to such refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

Sec. 22. Minnesota Statutes, 1979 Supplement, Section 291.215, Subdivision 1, is amended to read:

**291.215 VALUATION OF ESTATE; REPORTING.** Subdivision 1. ~~The valuation of all property includable in the Minnesota taxable estate of a decedent shall be subject to review and approval of the commissioner of revenue. 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. Except as otherwise provided in section 291.075, the value of all property includable in the Minnesota gross estate of a decedent may be independently determined under said sections for Minnesota estate tax purposes.~~

Sec. 23. Minnesota Statutes 1978, Section 291.32, Subdivision 1, is amended to read:

**291.32 REFUNDING OF TAX.** Subdivision 1. **APPLICATION; EXAMINATION AND ORDER; REFUNDMENT.** Whenever, under the provisions of this chapter any person or corporation shall be entitled to a return of any part of a tax previously paid, he shall may make application to the commissioner for a determination of the amount which he is entitled to have returned, and on such application shall furnish the commissioner with affidavits and other evidence showing the facts which entitled him to such return and the amount he is entitled to have returned. Upon the filing of such application, the commissioner shall examine the

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same and shall make a written order thereon denying or allowing the application in whole or in part and shall mail a copy of such order by certified mail to the applicant at the address stated on the application. If such application is allowed in whole or in part, the commissioner shall cause such refund to be paid in the manner provided by law. It shall be the duty of the state treasurer to pay warrants therefor out of any funds in the state treasury not otherwise appropriated. The moneys necessary to pay such warrants are hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

Sec. 24. Minnesota Statutes, 1979 Supplement, Section 291.33, Subdivision 1, is amended to read:

291.33 **PAYMENTS TO COUNTIES.** Subdivision 1. On or before the first of November in each year the commissioner shall determine the net amount of ~~estate tax~~ transfer taxes, penalty and interest collected thereon which has been paid to the commissioner during the fiscal year ending June 30 next preceding from estates in each of the several counties of this state wherein probate proceedings have been had or where, if no probate proceedings have been required, wherein are located the probate courts that would have had venue under the provisions of section 524.3-201, had there been assets of decedents subject to probate.

For purposes of this subdivision net amount shall be the total amount paid from each of the several counties under the provisions of this chapter, during the appropriate fiscal year, reduced by the refunds made by the commissioner applicable to each of the several counties under the provisions of this chapter, during the same fiscal year.

Sec. 25. Minnesota Statutes 1978, Section 291.33, is amended by adding a subdivision to read:

Subd. 3. For purposes of this section, transfer taxes shall mean the Minnesota inheritance tax or estate tax, or a Minnesota tax based upon the federal credit allowed for state death taxes.

Sec. 26. Minnesota Statutes, 1979 Supplement, Section 291.48, is amended to read:

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 he 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 return of a decedent or donor shall, upon written request, be open to inspection by or disclosure to (a) the administrator, executor, or trustee of his estate, and (b) 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 (c) a donee of 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.

Sec. 27. Minnesota Statutes 1978, Section 501.211, Subdivision 3, is amended to read:

Subd. 3. Such disclaimer shall be filed at any time after the creation of the interest, but in all events within ~~six~~ nine months after the effective date of the nontestamentary instrument creating the interest, or, if the disclaimant is not then finally ascertained as a beneficiary or his interest has not then become indefeasibly fixed both in quality and in quantity, such disclaimer shall be filed not later than ~~six~~ nine months after the event which would cause him so to become finally ascertained and his interest to become indefeasibly fixed both in quality and quantity.

Sec. 28. Minnesota Statutes 1978, Section 501.211, is amended by adding a subdivision to read:

Subd. 10. The survivor or survivors of a bank deposit or certificate of deposit held in the names of the decedent and such survivor or survivors may at any time disclaim such interest by authorizing the inclusion of the proceeds of such bank deposit or certificate of deposit in the inventory and appraisal required to be filed by the representative or executor of the estate of such decedent pursuant to law. For purposes of this clause, a bank deposit or certificate shall include a checking account or savings account in a banking institution as defined in section 48.01, subdivision 2, or in a federal savings and loan association, or in any other savings institution authorized to accept deposits.

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Sec. 29. Minnesota Statutes, 1979 Supplement, Section 524.3-105, is amended to read:

**524.3-105 PROCEEDINGS AFFECTING DEVOLUTION AND ADMINISTRATION; JURISDICTION OF SUBJECT MATTER.** Any interested person in a decedent's estate may apply to the registrar for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court's jurisdiction including but not limited to those described in this article. Interim orders approving or directing partial distributions, sale of property or granting other relief, ~~including, but not limited to, waiving the lien of inheritance taxes on specific property~~ may be issued by the court at any time during the pendency of an administration on the petition of the personal representative or any interested person. The court has exclusive jurisdiction of proceedings, to determine how decedents' estates subject to the laws of this state are to be administered, expended and distributed. The court has concurrent jurisdiction of any other action or proceeding concerning a succession or to which an estate, through a personal representative, may be a party, including actions to determine title to property alleged to belong to the estate, and of any action or proceeding in which property distributed by a personal representative or its value is sought to be subjected to rights of creditors or successors of the decedent.

The court shall not have jurisdiction of foreclosure of mechanic liens, or of any action under section 573.02.

Sec. 30. Minnesota Statutes 1978, Section 524.3-505, is amended to read:

**524.3-505 SUPERVISED ADMINISTRATION; INTERIM ORDERS; DISTRIBUTION AND CLOSING ORDERS.** Unless otherwise ordered by the court, supervised administration is terminated by order in accordance with time restrictions, notices and contents of orders prescribed for proceedings under section 524.3-1001. Interim orders approving or directing partial distributions, sale of property or granting other relief ~~including, but not limited to, waiving the lien of inheritance taxes on specific property~~ may be issued by the court at any time during the pendency of a supervised administration on the application of the personal representative or any interested person.

Sec. 31. Minnesota Statutes, 1979 Supplement, Section 524.3-1001, is amended to read:

**524.3-1001 FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESTATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.** (a) (1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and

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distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) ~~The court shall have the power in its decree or order of distribution to waive the lien of estate taxes, find that the taxes have been satisfied by payment or, decree the property subject to the lien; provided, however,~~ Where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled thereto, and has otherwise fully discharged his trust. If objections are filed with the court by the commissioner of revenue, no discharge shall be issued until the objections are determined. If no objection is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 32. Minnesota Statutes 1978, Section 524.3-1003, is amended to read:

**524.3-1003 CLOSING ESTATES; BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.** (a) Unless prohibited by order of the court

and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than six months after the date of original appointment of a general personal representative for the estate, a statement stating that he, or a prior personal representative whom he has succeeded, has or have:

(1) published notice to creditors and that the first publication occurred more than six months prior to the date of the statement;

(2) fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were presented, expenses of administration and estate, ~~inheritance~~ and other taxes, except as specified in the statement, and that the assets of the estate have been inventoried and distributed to the persons entitled. If any claims, expenses or taxes remain undischarged, the statement shall state in detail other arrangements which have been made to accommodate outstanding liabilities; and

(3) sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates. Letters of appointment remain in full force until one year after the filing of the closing statement at which time the authority of the personal representative shall terminate.

Sec. 33. Minnesota Statutes 1978, Section 525.532, Subdivision 3, is amended to read:

Subd. 3. Such disclaimer shall be filed at any time after the creation of the interest, but in all events within ~~six~~ nine months after the death of the person by whom the interest was created or from whom it would have been received, or, if the disclaimant is not finally ascertained as a beneficiary or his interest has not become indefeasibly fixed both in quality and quantity as of the death of such person, then such disclaimer shall be filed not later than ~~six~~ nine months after the event which would cause him so to become finally ascertained and his interest to become indefeasibly fixed both in quality and quantity.

Sec. 34. Any lien created under Minnesota Statutes 1978, Section 291.14 or 292.09 shall expire and be unenforceable on December 31, 1983.

Sec. 35. **REPEALER.** Minnesota Statutes 1978, Sections 291.17; 291.19, Subdivisions 1, 2 and 4; 291.20, Subdivision 4; and Minnesota Statutes, 1979 Supplement, Sections 291.111, Subdivision 1; and 291.19, Subdivision 3, are repealed.

Sec. 36. **EFFECTIVE DATE.** Section 26 is effective the day after final enactment. The remainder of this act is effective for estates of decedents dying after December 31, 1979.

Approved April 3, 1980

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