

CHAPTER 291

INHERITANCES, DEVISES, BEQUESTS

Sec.		Sec.	
291.005	Definitions.	291.21	Commissioner of revenue to receive list of property.
291.01	Tax imposed.	291.22	Appraisers.
291.02	Rate of tax.	291.23	Inheritances, how appraised.
291.03	Rates.	291.24	Notice of appraisal; powers and duties of appraisers.
291.05	Exemptions.	291.25	Report; powers of court.
291.051	Marital exemption tax.	291.26	Probate court, reports.
291.06	Limited exemptions.	291.27	Unpaid tax; omitted property.
291.065	Employee retirement plans, exemption.	291.29	Records; reports.
291.07	Deductions.	291.30	Compounding the tax.
291.08	Nonresident estates; allowance of deductions and exemptions.	291.31	Powers of commissioner of revenue.
291.09	Determination of tax.	291.32	Refunding of tax.
291.10	Maintenance of family in inheritance tax cases.	291.33	Payments to counties.
291.11	Time effective.	291.34	Estate tax.
291.111	Taxation of disclaimed interests.	291.35	Time of payment.
291.12	Collection of tax.	291.36	Certain sections, when void.
291.13	Taxes to be paid to commissioner of revenue.	291.37	Intent.
291.131	Penalties.	291.38	Application.
291.132	Extension to file or pay.	291.39	Other laws.
291.14	Inheritance tax a lien upon property.	291.40	Apportionment of estate tax.
291.15	Interest.	291.41	Definitions.
291.16	Power of sale.	291.42	Election to invoke.
291.17	Legacy charged on property.	291.43	Agreements as to death tax.
291.18	Overpayment of tax; refunds; appropriation.	291.44	Determination of domicile.
291.19	Personal property of nonresident decedent, transfer.	291.45	Acceptance of agreed sum in full payment.
291.20	Safety deposit companies not to transfer funds.	291.46	Penalties, interest; limitation.
		291.47	Application.

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

(1) "Probate assets" means and includes property owned by a decedent at the time of his death required by section 524.3-706 to be listed on a personal representative's inventory and appraisal.

(2) "Non-probate assets" means and includes all property of every kind transferred from a decedent or at or by reason of the decedent's death which is subject to the inheritance tax imposed by this chapter (without regard to deductions or exemptions) and which does not consist of probate assets.

(3) "Commissioner" means and refers to the commissioner of revenue of this state or any person or body within the state department of revenue to whom he may have delegated his functions under this chapter.

(4) "Dependent child" means a natural child of the decedent, or a child adopted by the decedent who is incapable of furnishing his own support by reason of a physical or mental ailment, illness or deformity. The commissioner may request verification of the physical or mental condition of the child before allowing the exemptions and rates applicable to a dependent child under this chapter.

(5) "Stepchild" means a child who is not the decedent's natural or adopted child but is the natural or adopted child of the decedent's surviving or deceased spouse.

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

[1963 c 740 s 26; 1973 c 185 s 1; 1973 c 582 s 3; 1975 c 347 s 2]

291.01 TAX IMPOSED. Subdivision 1. **Transfers.** A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of this state;

(2) When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death;

MINNESOTA STATUTES 1976

3935

INHERITANCES, DEVISES, BEQUESTS 291.01

(3) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death; any transfer of the material part of the property of a deceased in the nature of a final disposition or distribution thereof, made within three years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death; but no such transfer made prior to such three year period shall be deemed or held to have been made in contemplation of death; and

(4) Nothing in this chapter shall be construed as imposing a tax upon any transfer, as defined in this chapter, of intangibles, however used or held, whether in trust or otherwise, by a person, or by reason of the death of a person, who was not a resident of this state at the time of his death.

Subd. 2. **When imposed.** Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this chapter.

Subd. 3. **Powers of appointment.** A taxable transfer under the provisions of this chapter shall be deemed to have been made:

(1) To the extent of any property with respect to which the decedent has at the time of his death general power of appointment, created on or before October 21, 1942, is exercised by the decedent

(A) by will, or

(B) by disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter;

but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof. If a general power of appointment created on or before October 21, 1942, has been partially released so that it is no longer a general power of appointment, the exercise of such power shall not be deemed to be the exercise of a general power of appointment if

(a) such partial release occurred before November 1, 1959, or

(b) the donee of such power was under a legal disability to release such power on October 21, 1942, and such partial release occurred not later than six months after the termination of such legal disability.

(2) To the extent of any property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter. A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power. For purposes of this paragraph (2), the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(3) To the extent of any property with respect to which the decedent:

(A) by will, or

(B) by a disposition which is of such nature that if it were a transfer of property owned by the decedent such transfer would be taxable under the provisions of this chapter,

exercises a power of appointment created after October 21, 1942, by creating another power of appointment which can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

MINNESOTA STATUTES 1976

(4) The term "general power of appointment" means a power which is exercisable in favor of the decedent, his estate, his creditors or the creditors of his estate; except that:

(A) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the decedent only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the decedent only in conjunction with another person:

(a) If the power is not exercisable by the decedent except in conjunction with the creator of the power, such power shall not be deemed a general power of appointment.

(b) If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent, such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

(c) If, after the application of clauses (a) and (b), the power is a general power of appointment and is exercisable in favor of such other person, in such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons, including the decedent, in favor of whom such power is exercisable. For purposes of clauses (b) and (c), a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(5) The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property, which could have been appointed by exercise of such lapsed powers, exceeded in value, at the time of such lapse, the greater of the following amounts:

(a) \$5,000 or

(b) Five percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.

(6) For purposes of this subdivision, a power of appointment created by a will executed on or before October 12, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

Subd. 4. Jointly owned property. Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositories in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors. Provided, where any property has been acquired prior to April 29, 1935, by the decedent and spouse, as joint tenants, not in excess of one-half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value

of the property by the number of joint tenants.

Subd. 5. **Life insurance policies.** (1) The proceeds of all life or accident insurance policies whether now in force or hereafter issued, payable on account of the decedent's death shall be subject to the tax herein imposed, as follows:

(a) To the extent of the amount receivable by the executor of the decedent as insurance under policies on the life of the decedent.

(b) To the extent of the amount receivable by all other beneficiaries as insurance under policies on the life of the decedent with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person. For purposes of the preceding sentence, the term "incident of ownership" includes a reversionary interest (whether arising by the express terms of the policy or other instrument or by operation of law) only if the value of such reversionary interest exceeded five percent of the value of the policy immediately before the death of the decedent. As used in this paragraph, the term "reversionary interest" includes a possibility that the policy, or the proceeds of the policy, may return to the decedent or his estate, or may be subject to a power of disposition by him. The value of a reversionary interest at any time shall be determined (without regard to the fact of the decedent's death) by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations prescribed by the commissioner of internal revenue or his delegate. In determining the value of a possibility that the policy or proceeds thereof may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such policy or proceeds may return to the decedent or his estate.

(2) Such proceeds shall be deemed a transfer within the meaning of that term as used in this chapter and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto.

(3) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit, or death benefit insurance business which shall pay to any person, association, or corporation any insurance or death benefit in excess of \$1,000 or shall transfer any unpaid balance of, or any interest in, any annuity contract or deposit, upon the death of a resident of this state, shall give notice of such payment or transfer to the commissioner within ten days from the date thereof. Such notice shall be given on the forms prescribed by the commissioner and such notice shall set forth such information as the commissioner shall prescribe.

[1905 c 288 s 1; 1911 c 372 s 1; 1935 c 334 s 1; Ex1937 c 50 s 3; 1939 c 338 s 1; 1939 c 431 art 6 s 6; 1941 c 470 s 1; 1943 c 504 s 1,2; 1949 c 735 s 1; 1953 c 629 s 1; 1955 c 552 s 1; 1961 c 442 s 1; 1963 c 182 s 1; 1963 c 218 s 1; 1963 c 740 s 1,2; 1965 c 89 s 1; 1965 c 555 s 1; 1967 c 850 s 1] (2292)

291.02 RATE OF TAX. The tax so imposed shall be computed upon the true and full value in money of such property at the rates hereinafter prescribed and only upon the excess of the exemptions hereinafter granted.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 1; 1927 c 205 s 1,2; 1939 c 338 s 2; 1943 c 504 s 3] (2293)

291.03 RATES. When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption or exemptions hereinafter specified, where applicable, the tax hereby imposed shall be:

(1) Where the person entitled to any beneficial interest in such property shall be the surviving spouse, minor or dependent child of the decedent, or any minor or dependent legally adopted child at the following prescribed rates:

1 1/2 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).

2 percent on the next \$25,000 or part thereof.

3 percent on the next \$50,000 or part thereof.

4 percent on the next \$50,000 or part thereof.

5 percent on the next \$50,000 or part thereof.

6 percent on the next \$100,000 or part thereof.

- 7 percent on the next \$100,000 or part thereof.
- 8 percent on the next \$100,000 or part thereof.
- 9 percent on the next \$500,000 or part thereof.
- 10 percent on the excess over \$1,000,000.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the adult child or other lineal descendant of the decedent, adult legally adopted child or issue, lineal ancestor of the decedent, stepchild as defined in section 291.005, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter, or any lineal issue of such mutually acknowledged child, at the following prescribed rates:

- 2 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).
- 4 percent on the next \$25,000 or part thereof.
- 6 percent on the next \$50,000 or part thereof.
- 7 percent on the next \$100,000 or part thereof.
- 8 percent on the next \$200,000 or part thereof.
- 9 percent on the next \$600,000 or part thereof.
- 10 percent on the excess over \$1,000,000.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or a husband or widower of a daughter of the decedent, at the following prescribed rates:

- 6 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).
- 8 percent on the next \$25,000 or part thereof.
- 10 percent on the next \$50,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$100,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$500,000 or part thereof.
- 25 percent on the excess over \$1,000,000.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the following prescribed rates:

- 8 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).
- 10 percent on the next \$25,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$50,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$100,000 or part thereof.
- 26 percent on the next \$500,000 or part thereof.
- 30 percent on the excess over \$1,000,000.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2a; 1927 c 205 s

MINNESOTA STATUTES 1976

3939

INHERITANCES, DEVICES, BEQUESTS 291.05

1,2; 1939 c 338 s 2a; 1943 c 504 s 3; Ex1959 c 70 art 4 s 1; 1963 c 107 s 1; 1973 c 185 s 2; 1976 c 320 s 1] (2293)

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

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

(1) Any devise, bequest, gift, or transfer to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively, and any devise, bequest, gift, or transfer 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, and any bequest or transfer to a trustee or trustees exclusively for such purposes, shall be exempt. Any devise, bequest, gift, or transfer to an employee stock ownership trust as defined in section 290.01, subdivision 25, shall be exempt. Where 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.

Any devise, bequest, gift, or transfer, not to exceed \$1,000 made to a clergyman, the proceeds of which are to be used for religious purposes or rites designated by the testator, shall be exempt. Any devise, bequest, gift, or transfer 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, and any bequest or transfer to a trustee or trustees exclusively for such purposes, shall be exempt, 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) The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or to any minor or dependent child of the decedent, or to any minor or dependent legally adopted child of the decedent, shall be exempt to the extent of \$45,000 of the appraised value thereof. In the case of a decedent's estate wherein no property or beneficial interest therein passing by reason of death is eligible for the homestead exemption because the decedent did not have an interest in property constituting a homestead at the time of his death, there shall be allowed an exemption in lieu of the homestead exemption, in the amount of \$10,000. The exemption shall be allocated among the surviving spouse and the decedent's natural or adopted minor or dependent children in proportion to the total amount of property or any interest therein passing to such spouse and children.

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.

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. Claims for refunds of inheritance tax paid on such proceeds shall be accepted by the commissioner if filed with him by December 31, 1970, or within 18 months after such payment, whichever is later.

Proceeds of payments from the United States railroad retirement fund; or from the United States as social security benefit, shall be exempt.

(3) (i) Property or any beneficial interest therein of the clear value of \$60,000 transferred to the surviving spouse, shall be exempt.

MINNESOTA STATUTES 1976

291.051 INHERITANCES, DEVISES, BEQUESTS

3940

(ii) Provided, where the amount of family maintenance allowed by the probate court is less than the maximum deductible under the provisions of section 291.10, or if no such maintenance is allowed, there shall be allowed to the surviving spouse an additional exemption equal in amount to the difference between the maximum deduction as provided by section 291.10 and the amount of such family maintenance allowed by the probate court. Further provided, where no probate proceedings are had there shall be allowed to the surviving spouse an additional exemption equal to the maximum deduction allowed for family maintenance under the provisions of section 291.10.

(4) (i) Property or any beneficial interest therein of the clear value of \$30,000 transferred to each minor or dependent child of the decedent, or any minor or dependent legally adopted child of the decedent, shall be exempt.

(ii) Provided, where the decedent left no surviving spouse entitled to the exemption allowed by clause (3) of this section the exemption allowed by subparagraph (ii) of clause (3) shall be allowed to beneficiaries entitled to exemption under the provisions of this clause. In no event shall the aggregate amount of exemption so allowed be in excess of the additional amount that would have been allowed under subparagraph (ii) of clause (3) had such paragraph been applicable.

(5) Property or any beneficial interest therein of the clear value of \$6,000 transferred to any adult child or other lineal descendant of the decedent, any adult legally adopted child, stepchild as defined in section 291.005, or any child to whom the decedent, for not less than ten years prior to his death, stood in the mutually acknowledged relation of a parent; provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday, and was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, or any lineal ancestor of the decedent, shall be exempt.

(6) Property or any beneficial interest therein of the clear value of \$1,500 transferred to any brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or a husband or widower of a daughter of the decedent, shall be exempt.

(7) Property or any beneficial interest therein of the clear value of \$500 transferred to any person in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate not exempt under this chapter, shall be exempt.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2c; 1927 c 290 s 1; 1931 c 208; Ex1937 c 50 s 2; 1939 c 338 s 2c; 1943 c 504 s 3; 1949 c 735 s 2; 1951 c 180 s 1; Ex1959 c 70 art 4 s 3; 1963 c 110 s 1; 1965 c 105 s 1; 1969 c 58 s 1; 1973 c 185 s 3; 1974 c 157 s 5; 1976 c 2 s 107; 1976 c 320 s 2] (2293)

291.051 MARITAL EXEMPTION TAX. Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this subdivision shall have the meaning given them herein.

"Marital exemption" means 50 percent, but not more than \$250,000, of the net taxable value passing to the surviving spouse of a decedent domiciled in Minnesota at the time of his death, reduced by the value of real property outside Minnesota and tangible personal property permanently located outside Minnesota.

"Net taxable value" means the gross value passing to the surviving spouse reduced by the deductions attributable to such gross value pursuant to section 291.07, except subdivision 1, clause (5), but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2), and (3), and 291.10.

"Marital exemption tax" means a tax imposed at the rates provided by this chapter on the value of property passing to the surviving spouse less the marital exemption, but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2) and (3) and 291.10.

Subd. 2. **Alternate tax.** If the marital exemption tax on the property passing to the surviving spouse is less than a tax computed on that property under the other provisions of this chapter, the marital exemption tax shall be imposed in lieu of the tax computed under the other provisions.

[1976 c 320 s 3]

291.06 LIMITED EXEMPTIONS. Where property is transferred to any person described in section 291.03, clauses (1) and (2), which can be identified as having been

MINNESOTA STATUTES 1976

3941

INHERITANCES, DEVICES, BEQUESTS 291.07

transferred to the decedent from a person who died within five years prior to the death of the decedent, and such transfer to the decedent was within the class of transfer described in said section 291.03, clauses (1) and (2), such property shall be exempt to the extent of the value thereof at the date of death of the prior decedent but not to exceed the value at the date of death of the second decedent. Provided, (1) no such exemption shall be allowed unless an inheritance tax was determined and paid to this state on the transfer thereof from the said prior decedent; (2) the exemption shall be limited to the value of property which is in excess of the amount of the exemption provided in section 291.05 allowed on the transfer to the decedent; (3) unless such previously transferred property is specifically devised or bequeathed, the exempt property for purposes of taxation shall be considered as belonging to the residue of the estate; (4) property exempt under this section shall not be included in computing the rate applicable to other transfers to the beneficiary receiving such exempt property.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2c; 1939 c 338 s 2d; 1943 c 504 s 3] (2293)

291.065 EMPLOYEE RETIREMENT PLANS, EXEMPTION. The value of an annuity or other payment receivable by a surviving spouse or minor or dependent child of the decedent or a trust for their benefit after December 31, 1956, shall be exempt from inheritance tax if received under (1) an employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan, which at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirement of section 401(a) of the Internal Revenue Code of 1954, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; (2) a retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan, which at the time of the decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of paragraph (3) of section 401(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; or (3) a retirement annuity contract purchased by an employer which is an organization referred to in section 503(b) (1) (2) or (3) of such code and which is exempt from tax under section 501(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue. If such amounts payable after the death of the decedent under a plan described in clause (1) (2) or (3) are attributable to any extent to payments or contributions made by the decedent, no exemption shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of the preceding sentence, contributions or payments made by the decedent's employer or former employer under a trust or plan described in clause (1) (2) or (3) shall not be considered to be contributed by the decedent.

[Ex 1959 c 83 s 2; 1963 c 105 s 1; 1971 c 789 s 3; 1973 c 582 s 3]

291.07 DEDUCTIONS. Subdivision 1. In determining the tax imposed by section 291.01, where the estate has been submitted to the jurisdiction of the court, the following deductions shall be allowed if approved by the court in a formal proceeding:

- (1) funeral expenses
- (2) probate administration expenses, 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 the decedent which have been properly paid
- (5) family maintenance to the extent provided by section 291.10
- (6) value of personal property to the extent of the amount allowed under the provisions of section 525.15
- (7) federal estate taxes determined as follows:
 - (a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;

MINNESOTA STATUTES 1976

291.07 INHERITANCES, DEVISES, BEQUESTS

3942

(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;

(c) the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury.

(d) for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate.

(8) other taxes which have accrued and are a lien on property in the estate at the time of death

(9) reasonable fees for legal or fiduciary services incident to non-probate assets

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

Subd. 2. In determining the tax imposed by section 291.01, where an estate has not been submitted to the jurisdiction of the court, the following deductions shall be allowed:

(1) funeral expenses,

(2) expenses of last illness unpaid at death,

(3) federal estate taxes determined as follows:

(a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;

(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;

(c) the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury;

(d) for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate;

(e) apportionment of the federal estate tax to the individual transferees shall be subject to the provisions of section 524.3-916.

(4) value of personal property to the extent of the amount allowed under the provisions of section 525.15. A formal order of the probate court is not necessary before these deductions may be taken in the computation of the tax,

(5) other taxes which have accrued and are a lien on property in the estate at the time of death,

(6) reasonable fees for legal or fiduciary services incident to non-probate assets.

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

Where an estate has not been submitted to the probate court, deductions under (1), (2), (3) and (6) heretofore shall be allowed only to the persons actually having disbursed moneys for payments, and shall not exceed the net amount of such disbursements after giving credit for death benefits, medical and hospitalization insurance payments.

No deduction shall be allowed unless the person claiming the deduction when requested by the probate court or the commissioner, furnishes the court or the commissioner with information sufficient to enable the court or commissioner to determine the validity or correctness thereof.

Subd. 2a. The deductions set forth in subdivision 1 shall be allowed where the estate has been submitted to the jurisdiction of the court and the deductions taken have not been approved by the court in a formal proceeding. The deductions taken shall be submitted to the commissioner prior to the closing of the estate. The deductions shall be allowed unless the commissioner objects to any deduction claimed. The objection shall be made in the manner provided by section 291.09, subdivision 1.

MINNESOTA STATUTES 1976

3943

INHERITANCES, DEVISES, BEQUESTS 291.09

Subd. 3. (a) The Minnesota and federal income tax allowed as deductions under subdivision 1, clause (10) and subdivision 2, clause (7) 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) 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."

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2c; 1939 c 338 s 2e; 1943 c 504 s 3; Ex1959 c 83 s 3; 1961 c 350 s 1; Ex1961 c 70 s 1; 1963 c 740 s 3; 1965 c 249 s 1; 1967 c 555 s 1; 1969 c 587 s 1; 1971 c 513 s 1-3; 1975 c 347 s 3,4; 1976 c 215 s 1] (2293)

291.08 NONRESIDENT ESTATES; ALLOWANCE OF DEDUCTIONS AND EXEMPTIONS. (a) Where any tax is due on the transfer of any property or interest therein owned by a nonresident, the deductions and exemptions shall be allowed as provided in clauses (b) and (c) below:

(b) Deductions.

(1) Funeral expenses to the extent incurred in Minnesota;

(2) Minnesota probate administration expense;

(3) Family maintenance to the extent provided by section 291.10, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

(4) Value of personal property to the extent of the amount allowed under section 525.15, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

(5) Federal estate taxes subject to the limitations imposed by section 291.07;

(6) Other taxes which have accrued or are a lien on Minnesota property at the time of death, or which are owed to Minnesota in respect of taxable income;

(7) Reasonable fees for legal or fiduciary services incident to nonprobate assets taxable in Minnesota.

(c) Exemptions. The exemptions applicable to the person entitled to a beneficial interest shall be allowed as in the case of residents under section 291.05, reduced by the maximum exemption allowed or allowable under the laws of the state of residence of the decedent.

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2c; 1939 c 338 s 2f; 1943 c 504 s 3; 1973 c 275 s 1] (2293)

291.09 DETERMINATION OF TAX. Subdivision 1. (a) Every personal representative shall submit to the commissioner a copy of the inventory and appraisal prepared by him in accordance with sections 524.3-706 to 524.3-708 relating to the inventory and appraisal, and a true and complete schedule of non-probate assets, on a form prescribed by the commissioner.

(b) Every personal representative shall file with the commissioner, on a form prescribed by the commissioner, an inheritance tax return showing the values contained in the inventory and appraisal and schedule of non-probate assets and deductions and exemptions claimed by the representative, and containing a computation of the inheritance tax due under the provisions of this chapter.

(c) Except as hereinafter provided, such inheritance tax return shall be conclusive as to the valuation of both probate and non-probate assets, to all other matters relating to the taxability of probate assets, and to the computation of the tax, unless, within 90 days after such filing, the commissioner, or any other person from whom any portion of such tax is due, has filed with the personal representative (and with the commissioner if the person objecting is one other than a personal representative) written objections to any matter. Except as provided in clause (f) of this subdivision, upon objection the commissioner shall fix the time and place of a hearing thereon no

MINNESOTA STATUTES 1976

291.09 INHERITANCES, DEVISES, BEQUESTS

3944

earlier than ten days and no later than 30 days after the date of the filing of the objection. At such hearing the commissioner shall consider all available material presented by the personal representative for the purpose of substantiating or verifying the matters subject to the objections. Not later than 30 days after such hearing, the commissioner shall issue an order indicating the adjustment, if any, of the computation of the inheritance tax due.

(d) If the court upon a hearing on a personal representative's account allows a deduction different in amount than that used in the determination of the inheritance tax return as provided in the preceding subparagraph (b), or if the court determines:

(i) such property passes to a person or persons other than the person or persons reported on the inheritance tax return; or

(ii) such property passes to the person or persons reported on the inheritance tax return in amounts or shares different than those reported thereon; or

(iii) the relationship between the decedent and any person to whom property passes is other than the relationship reported on the inheritance tax return,

the commissioner not later than 90 days after receipt of a copy of the court's order or decree may issue an order adjusting the computation of the inheritance tax due in accordance therewith.

(e) The court may waive the filing of any inheritance tax return required by subparagraph (b) where it appears that no inheritance tax is due, but such waiver shall not limit the right of the commissioner to file a return pursuant to subdivision 3 hereof.

(f) If objections have been filed as provided in clause (c) of this subdivision, the personal representative or any other objector, in lieu of the hearing prescribed in clause (c) or subsequent to the hearing, may elect to have a formal proceeding under chapter 524 to determine the disputed matters.

(g) Any determination made by the commissioner may be appealed to the Minnesota tax court of appeals as provided in section 271.09.

Subd. 2. (a) When no representative has been appointed by the probate court, every person from whom a tax is due under the provisions of this chapter shall file with the commissioner, on forms prescribed by the commissioner, a schedule of non-probate assets listing the transfers on account of which such tax is due and an inheritance tax return showing the values contained in such schedule and all claimed deductions and exemptions and containing a computation of such tax.

(b) When no representative has been appointed by the probate court, and in cases where a representative has been appointed, as to matters reflected in the inheritance tax return which are not to be determined as prescribed in subdivision 1, subparagraph (c) hereof, the tax as computed on the return shall be the inheritance tax imposed by this chapter upon the transfers reported therein unless within 90 days after such filing, the commissioner or any other person from whom any portion of such tax is due mails a written notice to the commissioner, to the person so filing such return, and to each person from whom any part of such tax is due, objecting to such matters and fixing the time and place of a hearing thereon at least 30 days subsequent to the date of such notice. At such hearing the commissioner shall hear such objections, and within 30 days after such hearing, shall make his order determining the inheritance tax imposed by this chapter.

(c) The filing of an inheritance tax return shall not be required under the preceding subparagraph (a) where the transfers resulting in the tax were included in a schedule of non-probate assets and an inheritance tax return previously filed with the commissioner.

Subd. 3. Where any inheritance tax return required by the preceding provisions of this section has not been filed within 12 months after the decedent's death, the commissioner may make and file such return including a computation of the tax resulting from the transfers therein reported and at the time of such filing shall mail copies of such return to the representative, if any, and to each person from whom any portion of such tax is due. Such return may be objected to and a hearing held on such objections in the manner elsewhere provided in this section where the return is not made by the commissioner.

Subd. 4. In all cases where a federal estate tax return is filed, a true copy thereof shall be filed with the commissioner at the time of filing the original and likewise any

MINNESOTA STATUTES 1976

3945

INHERITANCES, DEVISES, BEQUESTS 291.11

changes, corrections, assessments of deficiency or amendments made therein after filing shall be promptly reported to the commissioner. The probate court shall file, with the commissioner, promptly upon their entry, true copies of all orders adjusting, settling or allowing any representative's intermediate, final or other account and all decrees of descent or partial or final distribution and all interlocutory decrees entered by it in any case where it has not waived the filing of an inheritance tax return pursuant to this section. Every representative at the time of filing any intermediate, final or other account with the probate court shall file a true copy thereof with the commissioner unless the filing of an inheritance tax return has been waived.

Subd. 5. Notwithstanding other provisions of this chapter, when agreed in writing between the commissioner and the representative, values for purposes of the inheritance tax on both probate and non-probate assets shall be the same as those finally determined for purposes of the federal estate tax on a decedent's estate.

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

[1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1, 2; 1919 c 410 s 2c; 1939 c 338 s 2g; 1943 c 504 s 3; 1963 c 740 s 4; Ex1971 c 31 art 3 s 1; 1973 c 184 s 1,2; 1975 c 347 s 5; 1976 c 134 s 78] (2293)

291.10 MAINTENANCE OF FAMILY IN INHERITANCE TAX CASES. In determining the value of any estate subject to an inheritance tax, the amount deducted for the maintenance of the family shall not be greater than the amount allowed under section 525.151, not exceeding in any event the sum of \$9,000.

[1935 c 335 s 1; 1976 c 320 s 4] (2293-1)

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 from whom the transfer is made and shall be due and payable at the expiration of 12 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 from whom the transfer is made. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than 12 months after the death of the person from whom the transfer is made. If the taxpayer fails to pay an installment on time, the election shall be revoked and the entire amount of unpaid tax 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.

(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.

(d) The estate tax prescribed in section 291.34, notwithstanding the period of limitations prescribed for determination of the inheritance tax in this chapter shall be determined by the commissioner not later than 90 days following the filing of the Minnesota estate tax return with the commissioner, together with a copy of the federal audit report or the closing letter accepting the federal return as originally filed.

Subd. 2. **Value of estates dependent upon any life, how determined.** The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the rule, method, and standard of mortality

and value employed by the commissioner of internal revenue in determining valuation for federal estate tax purposes under the Internal Revenue Code of 1954, as amended.

The rule, method and standard of mortality and value employed by the commissioner of internal revenue in determining valuation for federal estate tax purposes shall be applicable to transfers taxable under this chapter.

Subd. 3. Transfer made in trust, present value. When any transfer is made in trust for any person or persons or corporation or corporations, and the right of the beneficiaries of the trust to receive the property embraced in the trust is susceptible of present valuation, then, and in such case, the tax thereon shall be paid at the same time, in the same manner, and in like amount, that would be the case if the beneficiaries of such trust received the same directly from the decedent or the persons from whom the property is transferred.

Subd. 4. Life estate divested, how taxed. Where an estate for life or for years can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of such divesting.

Subd. 5. When tax paid; refund. When property is transferred in trust or otherwise, and the rights, interest, or estates of the transferee are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon the transfer at the highest rate which, on the happening of any of the contingencies or conditions, would be possible under the provisions of this chapter, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, that on the happening of any contingency whereby the property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this chapter, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which the person or corporation should pay under the provisions of this chapter, with interest thereon at the rate of six percent per annum from the time of payment. Such return of overpayment shall be made in the manner provided by section 291.32.

Subd. 6. Contingent encumbrance. In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled thereto, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon the happening of which the estate or property, or some part thereof or interest therein might be abridged, defeated, or diminished; provided, that in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgement, defeat, or diminution of the estate or property, or interest therein, as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section 291.32.

Subd. 7. Transfer subject to a charge. Where any property shall be transferred subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate, or interest, shall be deemed a transfer of property taxable under the provisions of this chapter in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interest is derived.

Subd. 8. Tax becomes payable when beneficiary takes possession. The tax on any devise, bequest, legacy, gift, or transfer limited, conditioned, dependent, or determinable upon the happening of any contingency or future event, by reason of which the full and true value thereof cannot be ascertained as provided for by the provisions of this chapter at or before the time when the taxes become due and payable, as hereinbefore provided, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof.

Subd. 9. Appraisal of estates in expectancy. Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be

MINNESOTA STATUTES 1976

3947

INHERITANCES, DEVISES, BEQUESTS 291.12

appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which the estates in expectancy may have been limited.

[1905 c 288 s 3; 1911 c 209 s 1; 1939 c 338 s 3; 1943 c 504 s 4,5; 1953 c 659 s 1; 1961 c 262 s 1; 1961 c 492 s 1; 1963 c 740 s 5; 1971 c 768 s 1; Ex1971 c 31 art 3 s 2; 1975 c 377 s 20; 1976 c 320 s 5] (2294)

291.111 TAXATION OF DISCLAIMED INTERESTS. Subdivision 1. Transfers of any interest in real or personal property and all rights and powers relating to the same which have been duly disclaimed pursuant to the provisions of sections 501.211 and 525.532, or in any manner provided in subdivision 2 shall be subject to the inheritance tax imposed by this chapter, and acts amendatory thereof only if, and to the same extent and in the same manner as, the same would have been subject to said tax if said interests, rights or powers had been originally created in favor of and transferred to the same persons and in the same shares in which they are effectively distributed or otherwise disposed of, after giving full effect to such disclaimers, pursuant to the governing instrument, if any, and sections 501.211 and 525.532 and all other applicable law.

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 pursuant to sections 501.211 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 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.

(3) (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.

[1965 c 552 s 3; 1971 c 757 s 1]

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

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

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

MINNESOTA STATUTES 1976

291.13 INHERITANCES, DEVISES, BEQUESTS

3948

Subd. 4. No representative or trustee shall be discharged from the duties of his office by any court having jurisdiction over him if he fails to comply with the provisions of subdivisions 1 and 2.

[1905 c 288 s 4; 1939 c 338 s 4; 1943 c 504 s 6; 1953 c 628 s 1; 1963 c 740 s 6]
(2295)

291.13 TAXES TO BE PAID TO COMMISSIONER OF REVENUE. Subdivision 1. All taxes imposed by this chapter shall be paid to the commissioner.

Subd. 2. The commissioner shall issue his receipt for any payment of tax under this chapter to the person paying such tax.

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

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

291.131 PENALTIES. Subdivision 1. If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to ten percent of the unpaid tax shall be added to the tax.

Subd. 2. In case of any failure to make and file a return within the time prescribed or an extension thereof, unless it is shown that such failure is not due to willful neglect, a penalty of ten percent shall be added to the tax if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. This penalty shall be in lieu of the penalty provided in subdivision 1.

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

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

Subd. 5. The commissioner shall have the power to abate penalties when in his judgment their enforcement would be unjust and inequitable, subject to the approval of the attorney general if the abatement exceeds \$500.

Subd. 6. The amount of tax not timely paid, including the amount of unpaid tax when the taxpayer elects to pay the tax in installments, together with any penalty provided by this section, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. All interest and penalty shall be added to the tax and collected as a part thereof.

[1975 c 377 s 21; 1976 c 320 s 6]

291.132 EXTENSION TO FILE OR PAY. 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 12 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

MINNESOTA STATUTES 1976

3949

INHERITANCES, DEVISES, BEQUESTS 291.14

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.

[1975 c 377 s 22; 1976 c 320 s 7]

291.14 INHERITANCE TAX A LIEN UPON PROPERTY. Subdivision 1. Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid, and the person to whom such property is transferred shall be personally liable for such tax, until its payment, to the extent of the value of such property. No such lien shall be enforced against real property, included in the probate estate, unless the state shall assert the same by filing a statement of its lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated, within ten years after the date of any deed of distribution or decree of distribution which may be entered in the estate involved.

Subd. 1a. (1) Where an order approving distribution of property is not issued by the court, any tax due on the transfer of such property or interest to a devisee or to heirs who are entitled under the statutes of intestate succession shall be a lien upon such property until the tax imposed by this chapter is paid.

(2) The lien shall not be enforced against real property subject to the provisions of clause (1) unless the state asserts it by filing a statement of lien in the office of the county recorder or the registrar of titles in the county where the real estate is situated within ten years from the date of recording a copy of the death record of the testate or intestate decedent, as the case may be, together with a statement by the commissioner acknowledging receipt of an inventory and appraisal listing the real property.

(3) When the tax on property subject to the provisions of this subdivision has been paid, or if there be deposited with the commissioner a sum of money in an amount equal to the tax which, in the judgment of the commissioner may be due upon the transfer of the property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit prescribed by him or instrument of conveyance that the lien for inheritance tax has been satisfied or has been waived, as the case may be. The affidavit or instrument of conveyance so certified may be recorded as are other instruments affecting the title to real estate.

Subd. 2. (1) Except as provided in clause (4) of this subdivision, where a lien for inheritance tax imposed under this chapter may be enforced against real property transferred to surviving joint tenants, or upon property transferred by a decedent during such decedent's lifetime, the surviving joint tenants or the transferees of the property so transferred by the decedent shall file on a form prescribed by the commissioner a schedule of non-probate assets listing the property or interest taxable. Any tax due on the transfer of such property or interest to the surviving joint tenants or to the transferees of the property so transferred by the decedent shall be reported on an inheritance tax return filed with the commissioner pursuant to section 291.09, and shall be a lien upon the interest of the surviving joint tenants or the transferees, until paid, and the surviving joint tenants or the transferees shall be personally liable for such tax to the extent of the value of such property.

(2) No lien shall be enforced against real property subject to the provision of clause (1) of this subdivision unless the state shall assert the same by filing a statement of such lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated within ten years from the date of recording a copy of the death record of the deceased joint tenant or deceased transferor, together with a copy of the schedule of non-probate assets required to be filed with the commissioner pursuant to clause (1) of this subdivision, which copy shall have been duly acknowledged by the commissioner.

(3) Where the tax on property subject to the provisions of clause (1) of this subdivision has been paid, or if there is deposited with the commissioner cash in an amount equal to the tax which, in the judgment of the commissioner, may be due upon the transfer of such property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit of survivorship-remainderman, described by the commissioner, that the lien has been satisfied or waived as the case may be. The affidavit so certified may be recorded as are other instruments affecting the title to real estate.

(4) (a) (i) When the decedent's death occurred subsequent to April 20, 1939, the provisions of this clause shall apply to the spouse, minor or dependent natural or

MINNESOTA STATUTES 1976

291.15 INHERITANCES, DEVISES, BEQUESTS

3950

adopted child of the decedent, or to the combination of classes of persons included herein,

(ii) When decedent's death occurred in the period beginning on April 21, 1939, and ending April 25, 1949, the provisions of this clause shall apply to the spouse, minor or dependent natural or adopted child or any other issue of the decedent, or to any combination of classes of persons included in this subparagraph (ii),

(b) Where the homestead is held in joint tenancy with the right of survivorship by the decedent and persons meeting the conditions described in (a) above, an affidavit in the form and manner prescribed by the commissioner, may be delivered to the county recorder or the registrar of titles. Such affidavit shall declare

(i) that the surviving joint tenant or tenants were members of the classes described in (a) above at the date of decedent's death (if any of the surviving joint tenants were minors, state date of such minor's birth),

(ii) that the property described as the homestead was owned and occupied by the decedent as his principal dwelling place at date of death,

(iii) that the quantity of land included in such property is not in excess of 120 acres, and not included in the laid out or platted portion of any city. If the land is within a laid out or platted portion of a city, its area shall not exceed one-half of an acre,

(iv) that the gross market value of such property at date of death was not in excess of \$45,000,

(v) the affidavit to be delivered to the county recorder or registrar of titles shall have attached thereto a certified copy of the death certificate with respect to the death of the deceased joint tenant.

The affidavit shall be in lieu of an affidavit of survivorship certified by the commissioner and shall extinguish the lien imposed on such property by clause (2) of this subdivision, and shall be recorded or filed as a document affecting the title to the real estate. The county recorder or registrar of titles shall not be required to verify the declarations made in such affidavit.

(c) A copy of the affidavit (which need not bear a copy of the death certificate) shall be supplied to the county recorder or registrar of titles; he will forward this copy to the commissioner at his office in St. Paul, Minnesota.

(d) Where it appears that a schedule of non-probate assets would otherwise not be required to be filed, the property, the lien on which has been extinguished in accordance with the provisions of paragraph (a) above, need not be reported on a schedule of non-probate assets.

Subd. 4. The lien of the state for inheritance taxes payable by a personal representative shall not extend to any right acquired by a bona fide purchaser, mortgagee, or lessee through any conveyance made by such personal representative, provided that such personal representative delivers to the county recorder or registrar of titles, as the case may be, a declaration that the property described therein has been sold to a bona fide purchaser, or has been mortgaged or leased, as the case may be. The declaration so submitted shall have attached thereto a certified copy of letters evidencing the appointment of such personal representative. The county recorder or registrar of titles shall submit a copy of such declaration to the commissioner at his office in St. Paul, Minnesota, without any requirement that the statements made therein by such personal representative have been verified. The lien so extinguished with respect to such bona fide purchaser, mortgagee or lessee shall not be reinstated or challenged by the commissioner.

[1905 c 288 s 6; 1933 c 118 s 1; 1963 c 740 s 8; 1967 c 850 s 2; 1969 c 891 s 1; 1975 c 347 s 6,7; 1976 c 181 s 2; 1976 c 320 s 8,9] (2297)

291.15 INTEREST. If such tax is not paid within 12 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.

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 applica-

MINNESOTA STATUTES 1976

3951

INHERITANCES, DEVISES, BEQUESTS 291.19

tion 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.

[1905 c 288 s 7; 1943 c 504 s 7; 1953 c 659 s 2; 1959 c 682 s 1; 1963 c 111 s 1; 1965 c 51 s 64; Ex1971 c 31 art 3 s 3; 1973 c 492 s 14; 1973 c 582 s 3; 1975 c 377 s 23] (2298)

291.16 POWER OF SALE. Every executor, administrator, or trustee shall have full power to sell so much of the property embraced in any inheritance, devise, bequest, or legacy as will enable him to pay the tax imposed by this chapter, in the same manner as he might be entitled by law to do for the payment of the debts of a testator or intestate.

[1905 c 288 s 8] (2299)

291.17 LEGACY CHARGED ON PROPERTY. If any bequest or legacy shall be charged upon or payable out of any property, the heir or devisee shall deduct such tax therefrom and pay such tax to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such property until paid; and the payment thereof shall be enforced by the executor, administrator, or trustee in the same manner that payment of the bequest or legacy might be enforced, or by the county attorney under section 291.27. If any bequest or legacy shall be given in money to any person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount; but, if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires, of the sum to be paid into his hands by such legatee or beneficiary and for such further order relative thereto as the case may require.

[1905 c 288 s 9] (2300)

291.18 OVERPAYMENT OF TAX; REFUNDS; APPROPRIATION. 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 12 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 of appeals, as the case may be.

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.

[1905 c 288 s 10; 1943 c 593 s 2; 1947 c 556 s 1; 1951 c 180 s 2; 1959 c 157 s 11; 1963 c 740 s 9; 1965 c 182 s 1; 1965 c 698 s 3; Ex1971 c 31 art 3 s 4; 1973 c 186 s 1; 1975 c 377 s 24; 1976 c 134 s 78] (2301)

291.19 PERSONAL PROPERTY OF NONRESIDENT DECEDENT, TRANSFER.

Subdivision 1. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligation in this state, standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the commissioner of revenue on the transfer thereof, and no such assignment or transfer shall be valid until such tax is paid.

Subd. 2. If any nonresident of this state dies owning personal property in this state, such property may be transferred or assigned by the personal representative of, or trustee for the decedent, only after such representative or trustee shall have procured a certificate from the commissioner of revenue consenting to the transfer of such property. Such consent shall be issued by the commissioner of revenue only in case there is no tax due hereunder; or in case there is a tax, when the same shall have been paid.

Subd. 3. Any personal representative, trustee, heir or legatee of a nonresident decedent desiring to transfer property having its situs in this state may make application to the commissioner of revenue for the determination of whether there is any tax due to the state on account of the transfer of the decedent's property and such applicant

shall furnish to the commissioner of revenue therewith an affidavit setting forth a description of all property owned by the decedent at the time of his death and having its situs in the state of Minnesota, the value of such property at the time of said decedent's death; also when required by the commissioner of revenue, a description of and statements of the true value of all the property owned by the decedent at the time of his death and having its situs outside the state of Minnesota, and also a schedule or statement of the valid claims against the estate of the decedent, including the expenses of his last sickness and funeral and the expenses of administering his estate, to the extent that such claims were incurred within this state. Such person shall also, on request of the commissioner of revenue, furnish to the latter a certified copy of the last will of the decedent in case he died testate, or an affidavit setting forth the names, ages and residences of the heirs at law of the decedent in case he died intestate and the proportion of the entire estate of such decedent inherited by each of said persons, and the relation, if any, with each legatee, devisee, heir, or transferee sustained to the decedent or person from whom the transfer was made. Such affidavits shall be subscribed and sworn to by the personal representative of the decedent or some other person having knowledge of the facts therein set forth.

Subd. 4. The statements in any such affidavits as to value or otherwise shall not be binding on the commissioner of revenue in case he believes the same to be untrue. From the information so furnished to him and such other information as he may have with reference thereto, the commissioner of revenue shall, with reasonable expedition, determine the amount of tax, if any, due the state under the provisions of this chapter and notify the person making the application of the amount thereof claimed to be due. On payment of the tax so determined to be due or in case there is no tax due to the state, the commissioner of revenue shall issue a consent to the transfer of the property so owned by the decedent.

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

Subd. 5. The consent of the commissioner of revenue to transfer or deliver personal property of a nonresident decedent as required under the provisions of this section shall not apply to intangibles exempt under the provisions of section 291.01, subdivision 1(4), provided that an affidavit in the form and manner prescribed by the commissioner is submitted in duplicate to any depository of funds or to any corporation that would otherwise be required to secure a consent to transfer from the commissioner. One copy of the affidavit executed as herein provided shall be forwarded to the commissioner by the depository or corporation herein described.

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

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

[1905 c 288 s 11; 1911 c 209 s 2; 1913 c 565 s 1; 1935 c 128 s 1; 1943 c 593 s 3; 1963 c 108 s 1; 1973 c 582 s 3] (2302)

291.20 SAFETY DEPOSIT COMPANIES NOT TO TRANSFER FUNDS. Subdivision 1. No person holding securities or assets belonging at the time of death of a decedent to him or to him and another or others as joint tenants, or having on deposit funds in excess of \$1,000 to the credit of a decedent, or to the decedent and another or others as joint tenants, or to the credit of the decedent as trustee for another or others, or renting a safe deposit box or other place of safekeeping to a decedent, individually or as joint tenant or tenant in common, shall deliver or transfer the same to any person, or permit any person to have access thereto, unless notice of the time and place of such intended transfer or access be served upon the county treasurer, personally or by representative, in which event the county treasurer, personally or by representative, may examine said securities, assets, funds or contents of such safe deposit box, at the time of such delivery, transfer or access. If, upon such examination the county treasurer or his representative shall for any cause deem it advisable that such securities, assets or funds should not be immediately delivered or transferred, or access to said safe deposit box or other place of safekeeping should not immediately be granted, he may forthwith notify in writing such person to defer delivery or transfer or access, as the case may be, for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the person notified to defer such delivery, transfer or access until the time stated in such notice or until prior revocation thereof. Failure to serve the notice first above mentioned, or to allow such examination, or to defer delivery or transfer of such securities, assets, or funds, or to refuse access to such safe deposit box or other place of safekeeping for the time stated in the second of such notices, shall render such person liable to the payment of the tax due,

MINNESOTA STATUTES 1976

3953

INHERITANCES, DEVISES, BEQUESTS 291.22

not exceeding \$1,000, upon the transfer of said securities, assets, or funds, or upon securities, assets, or moneys in such safe deposit box or other place of safekeeping, pursuant to the provisions of this act; provided, however, that nothing herein contained shall subject such person to liability for the payment of any such tax unless such person had knowledge of the death of the decedent prior to such delivery or transfer of such securities, assets, or funds, or entry to said safe deposit box or other place of safekeeping. The word "person" as used herein shall include individual persons, safe deposit companies, banks, trust companies, savings and loan associations, partnerships and all other organizations.

Any person seeking access to any safe deposit box upon the death of any person who at the time of his death was a tenant thereof either individually or as joint tenant or tenant in common, or seeking to withdraw securities, assets or funds belonging to the decedent or which decedent had the right to withdraw, shall notify the person renting such safe deposit box or holding such securities, assets or funds of the decedent's death. Any person who wilfully fails to give the notice of the death of the decedent required by this paragraph with intent to evade taxes due hereunder shall be guilty of a misdemeanor. It shall be a complete defense to any prosecution under the provisions of this subdivision that no inheritance tax was due from the decedent's estate.

Subd. 2. The county treasurer shall within ten days deliver a written report of the property examined by him to the probate court and the commissioner of revenue.

Subd. 3. No corporation organized under the laws of this state shall transfer on its books or on its records kept as transfer agent for any corporation any shares of stock standing in the name of a decedent who is known to have been a resident of this state or of a foreign country at the time of his death without the written consent of the commissioner of revenue. Any corporation violating the provisions of this section shall be liable to the state for the amount of any tax due on the transfer of such shares of stock.

Subd. 4. Every corporation, partnership, association or individual required to pay benefits to the estate or to a beneficiary of a deceased employee or former employee under a pension, stock bonus or profit sharing plan taxable under section 291.065, or to a beneficiary under an individual retirement account described in section 408 of the internal revenue code, as amended, whether in the form of periodic payments or in a lump sum, and whether directly or through a trust or fund created by the employer for such purpose, shall give notice of such obligation to the commissioner within 30 days after the date of payment, or the date of initial payment if more than one payment is to be made either to the estate or to a named beneficiary of such deceased employee or deceased former employee. Such notice shall be given on the forms prescribed by the commissioner and such notice shall set forth such information as the commissioner shall prescribe.

[1905 c 288 s 12; 1939 c 338 s 6; 1943 c 504 s 8; 1973 c 582 s 3; 1974 c 559 s 1; 1976 c 320 s 10,11] (2303)

291.21 COMMISSIONER OF REVENUE TO RECEIVE LIST OF PROPERTY.

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

Subd. 2. In all estates where it appears that an inheritance tax may be due, every representative upon the filing with the probate court of an inventory, appraisal, and schedule of non-probate assets as required under section 291.09, shall file copies thereof and of the petition, and will, if any, with the commissioner.

[1905 c 288 s 13; 1911 c 209 s 3; 1939 c 338 s 7; 1939 c 431 art 6 s 6; 1943 c 504 s 9; 1943 c 593 s 4; 1963 c 740 s 10] (2304)

291.22 APPRAISERS. The probate court may, in connection with any hearing before it mentioned in section 291.09, either upon its own motion or upon the application of any interested party, or the commissioner, and as often as and when occasion requires, appoint one or more impartial and disinterested persons as appraisers to appraise the full and true value of any property the value of which is in question at such hearing.

[1905 c 288 s 14; 1911 c 209 s 4; 1963 c 740 s 11] (2305)

MINNESOTA STATUTES 1976

291.23 INHERITANCES, DEVISES, BEQUESTS

3954

291.23 INHERITANCES, HOW APPRAISED. Every inheritance, devise, bequest, legacy, transfer, or gift upon which a tax is imposed under this chapter shall be appraised at its full and true value immediately upon the death of decedent, or as soon thereafter as may be practicable; provided, that when such devise, bequest, legacy, transfer, or gift shall be of such a nature that its full and true value cannot be ascertained, as herein provided, at such time, it shall be appraised in like manner at the time such value first becomes ascertainable; further provided that if a federal estate tax return is filed and the alternate valuation under section 2032 of the Internal Revenue Code is elected for federal estate tax purposes, every inheritance, devise, bequest, legacy, transfer, or gift upon which a tax is imposed under this chapter shall be valued as of the applicable federal valuation date or dates.

Except as provided in section 291.09, the applicable federal valuation date or dates provided in section 2032 of the Internal Revenue Code shall be applicable to transfers taxable under this chapter.

[1905 c 288 s 15; 1911 c 209 s 5; 1963 c 106 s 1; 1971 c 768 s 2] (2306)

291.24 NOTICE OF APPRAISAL; POWERS AND DUTIES OF APPRAISERS.

The appraisers appointed under the provisions of section 291.22 shall forthwith give notice, by mail, to all persons known to have a claim or interest in the inheritance, devise, bequest, legacy, or gift to be appraised, including the commissioner, all persons to whom notice of such hearing should have been given and such persons as the probate court may by order direct, of the time and place when they will make such appraisal. They shall at such time and place appraise the same at its full and true value, as herein prescribed, and for that purpose the probate court appointing the appraisers is authorized and empowered to issue subpoenas and compel the attendance of witnesses before such appraisers at the place fixed by the appraisers as the place where they will meet to hear such testimony and make such appraisal. The appraisers may administer oaths or affirmations to such witnesses and require them to testify concerning the true value of every right and interest of a decedent in property, real or personal, the value of which is in question at such hearing. The appraisers shall make a report in writing setting forth their appraisal of such property, with the testimony of the witnesses examined and such other facts in relation to the property and its appraisal as may be requested by the commissioner or directed by the order of the probate court. Such report shall be in writing and one copy thereof shall be filed in the probate court, and the others shall be mailed to the commissioner at his office in St. Paul, Minnesota.

Every appraiser shall be entitled to compensation at the rate of \$3 per day, and in extraordinary cases such additional sum per day, not exceeding \$7 altogether, as may be allowed by the probate judge, for each day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and such witnesses and the officer or person serving any such subpoena shall be entitled to the same fees as are allowed witnesses or sheriffs for similar services in courts of record. The compensation and fees claimed by any person for services performed under this chapter shall be approved by the judge of probate, who shall certify the amount thereof to the commissioner of finance, who shall examine the same; and, if found correct, he shall draw his warrant upon the state treasurer for the amount thereof in favor of the person entitled thereto.

Such warrants shall be paid out of the moneys appropriated for the payment of the expenses of inheritance tax collections.

[1905 c 288 s 16; 1911 c 209 s 6; 1963 c 740 s 12; 1973 c 492 s 14] (2307)

291.25 REPORT; POWERS OF COURT. The report of the appraisers appointed pursuant to section 291.22 shall be filed with the probate court, and a copy thereof with the commissioner, and from such report and other proof relating to any such estate before the probate court the court shall forthwith, as of course, determine the full and true value of all property the valuation of which is in question at such hearing and make its order determining matters affecting the inheritance tax as provided in section 291.09.

[1905 c 288 s 17; 1963 c 740 s 13] (2308)

291.26 PROBATE COURT, REPORTS. The county board may allow the judge of probate to employ such additional clerical assistance for all or part of the time as may be necessary to properly perform the duties imposed upon the probate court by

MINNESOTA STATUTES 1976

3955

INHERITANCES, DEVISES, BEQUESTS 291.29

this chapter.

[1905 c 288 s 18; 1911 c 209 s 7; 1913 c 574 s 1; 1939 c 338 s 9; 1939 c 431 art 6 s 6; 1943 c 593 s 5; 1963 c 740 s 14] (2309)

291.27 UNPAID TAX; OMITTED PROPERTY. If any tax is due and unpaid under the provisions of this chapter, the representative, the county attorney of the county in which an estate is probated, the attorney general or the commissioner may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this chapter has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, shall conform, as near as may be, to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this chapter in the probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected by action in a court of general jurisdiction by the representative of any estate, or by action, in the name of the state, brought by the attorney general, the county attorney or the commissioner.

Any property which for any cause is omitted from an appraisal, inventory, or schedule of non-probate assets so that its value is not taken into consideration in the determination of the inheritance taxes, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal, inventory, schedule of non-probate assets, inheritance tax return and determination, except that any representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance tax, such taxes thereon may be determined and recovered in a civil action brought by the attorney general or the commissioner, in the name of the state, in any court of general jurisdiction, or may be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered.

[1905 c 288 s 20; 1913 c 574 s 3; 1939 c 338 s 10; 1939 c 431 art 6 s 6; 1947 c 519 s 1; 1963 c 740 s 15] (2311)

291.29 RECORDS; REPORTS. Subdivision 1. Each probate court shall keep a book which shall be a public record, and in which shall be entered by the judge of said court the name of every decedent upon whose estate an application has been made for the issue of letters of administration, or letters testamentary or ancillary letters, the date and place of death of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the estimated value of the property of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the names and places of residence of the legatees, devisees, and other beneficiaries in any will of any such decedent, the amount of each legacy, and the estimated value of any property devised therein and to whom devised.

These entries shall be made from data contained in the papers filed on such application or in any proceeding relating to the estate of the decedent.

Subd. 2. The judge of probate shall also enter in such book the amount of the property of any such decedent, as shown by the inventory thereof, when made and filed in his office, and the returns made by any appraisers appointed by him under this act, and the value of all inheritances, devises, bequests, legacies and gifts inherited from such decedent, or given by such decedent in his will or otherwise as fixed by the probate court, and the tax assessed thereon, and the amounts of any receipts for payment thereof filed with him.

Subd. 3. The commissioner of revenue shall also furnish forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book.

Subd. 4. Each judge of probate, on settling and allowing the final account and issuing the decree of descent, shall immediately make a report to the commissioner

MINNESOTA STATUTES 1976

291.30 INHERITANCES, DEVISES, BEQUESTS

3956

upon the forms furnished by the commissioner containing all of the data and matters required to be entered in such book.

Subd. 5. The county recorder of each county shall, on the first day of January and July of each year, make reports in duplicate to the commissioner of revenue, containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor with the name and place of residence of the vendor or vendee, and the description of the property transferred, as shown by such instrument. Such county official shall also furnish to said state official, upon request, all information specifically requested as to any instruments of record in his office.

[1905 c 288 s 21; 1913 c 565 s 2; 1943 c 504 s 10; 1953 c 626 s 1; 1959 c 44 s 1; 1963 c 740 s 16; 1973 c 582 s 3; 1976 c 181 s 2] (2312)

291.30 COMPOUNDING THE TAX. The commissioner is hereby authorized and empowered to enter into an agreement with the owners or transferees of any property or the representatives of any estate or trust in which remainders or expectant estates are of such a nature or so disposed and circumstanced that the taxes are not presently payable or where the interests of the legatees, devisees, or other beneficiaries are or were not ascertainable under the provisions of this chapter, at the time fixed for the appraisal and determination of the tax on estates and interests transferred in fee, and to thereby compound the tax upon such transfers upon such terms as are deemed equitable and expedient; to grant a discharge to such owners, transferees or representatives on account thereof upon payment of the taxes provided for in such composition, which shall be conclusive in favor of such owners, transferees or representatives as against the interest of any such legatee, devisee, or other beneficiary or transferee as may possess either present rights of enjoyment, or fixed, absolute or indefeasible rights of future enjoyment or as would possess such rights in the event of the immediate termination of any particular estate provided that he consent thereto either personally or by duly authorized attorney, when competent, or by guardian. Composition agreements made, effected and entered into under the provisions of this section shall be executed in so many original counterparts as to permit the following disposition thereof: one copy thereof filed in the probate court of the county in which the estate is being probated, unless there is no probate proceeding; one copy filed with the commissioner, and one copy delivered to each person from whom an inheritance tax is due.

The commissioner shall not consent to the assignment or delivery of any property embraced in any legacy, devise, or transfer from a non-resident decedent to a nonresident trustee thereof under the provisions of Minnesota Statutes 1961, Section 291.19, where the property embraced in such legacy, devise, or transfer is so circumstanced and disposed of that the tax thereon cannot be presently ascertained, but is so circumstanced and disposed of as to authorize him to enter into a composition agreement with reference to the tax on any estate, or interest therein, as herein provided, until the tax on the transfer of any such estate or interest shall have been compounded and the tax paid, as hereinbefore provided for; or, in lieu thereof, the trustee or other person to whom the possession of such property is delivered shall have made, executed and delivered to the commissioner a bond to the state of Minnesota in an amount equal to the amount of tax which in any contingency may become due and owing to the state on account of the transfer of such property, such bond to be approved by the commissioner and conditioned for the payment to the state of Minnesota of any tax which may accrue to the state under this act on the subsequent transfer or delivery of the possession of such property to any person beneficially entitled thereto. The provisions of Minnesota Statutes 1961, Sections 574.01, 574.12, and 574.15, shall apply to the execution of said bond and the qualification of the surety or sureties thereon.

No property having its situs in this state, embraced in any legacy or devise bequeathed or devised to a nonresident trustee and circumstanced or disposed of as last hereinbefore described, shall be decreed and distributed by any court of this state to such nonresident trustee until he shall have compounded and paid the tax as provided for in this section; or, in lieu thereof, given a bond to the state, as provided for in this section, with reference to transfers of property owned by non-resident decedents.

[1905 c 288 s 21-A; 1911 c 209 s 9; 1939 c 431 art 6 s 6; 1943 c 593 s 6; 1945 c 554 s 1; 1963 c 740 s 17] (2313)

291.31 POWERS OF COMMISSIONER OF REVENUE. Subdivision 1. The commissioner of revenue is hereby authorized and empowered to issue a citation to any person who he may believe or has reason to believe has any knowledge or information concerning any property which he believes or has reason to believe has been transferred by any person and as to which there is or may be a tax due to the state under the provisions of this chapter, and by such citation require such person to appear before him at a time and place to be designated in such citation and testify, under oath, as to any fact or information within his knowledge touching the quantity, value, and description of any such property and its ownership and the disposition thereof which may have been made by any person, and to produce and submit to the inspection of the commissioner of revenue any books, records, accounts, or documents in the possession of or under the control of any person so cited. The commissioner of revenue shall also have power to inspect and examine the books, records, and accounts of any person, firm, or corporation, including the stock transfer books of any corporation, for the purpose of acquiring any information deemed necessary or desirable by him for the proper enforcement of this chapter and the collection of the full amount of the tax which may be due to the state hereunder. Any and all information acquired by the commissioner of revenue under and by virtue of the means and methods provided for by this section shall be deemed and held by him as confidential and shall not be disclosed by him except so far as the same may be necessary for the enforcement and collection of the inheritance tax provided for by this chapter.

Refusal of any person to attend before the commissioner of revenue in obedience to any such citation, or to testify, or produce any books, accounts, records, or documents in his possession or under his control, and submit the same to inspection of the commissioner of revenue when so required, may, upon application of the commissioner of revenue, be punished by any district court in the same manner as if the proceedings were pending in such court.

Witnesses so cited before the commissioner of revenue, and any sheriff or other officer serving such citation, shall receive the same fees as are allowed in civil actions; to be paid by the commissioner of revenue out of the funds appropriated for the enforcement of this chapter.

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

[1905 c 288 s 21-B; 1911 c 209 s 9; 1939 c 431 art 6 s 6; 1963 c 201 s 1; 1973 c 582 s 3] (2314)

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 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 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.

Subd. 2. **Applicant may sue.** If the application is denied in whole or in part the taxpayer may commence an action against the commissioner to recover any overpayments of taxes claimed to be refundable but for which the commissioner has issued no order of refundment. Such action may be brought in the District Court of the district

MINNESOTA STATUTES 1976

291.33 INHERITANCES, DEVISES, BEQUESTS

3958

in which lies the county of his residence or principal place of business if an estate or trust, of the principal place of its administration, or in the district court for Ramsey County. Such action may be commenced after the expiration of six months after the application is filed if the commissioner has not taken final action thereon and shall be commenced within 18 months after the date of the order denying the application. If the commissioner has not acted within two years after the application is filed, it shall be considered denied.

[1905 c 288 s 21-C; 1911 c 209 s 9; 1939 c 431 art 6 s 6; 1943 c 593 s 7; 1947 c 556 s 2; 1963 c 109 s 1; 1963 c 740 s 18] (2315)

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 inheritance tax, Minnesota estate tax 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.

Subd. 2. Ten percent of the amount as determined under the provisions of subdivision 1 shall be paid to each of such counties.

Said payments shall be transmitted to the county auditor of each county, to be placed to the credit of the county revenue fund. 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.

[1905 c 288 s 21-D; 1911 c 209 s 9; 1943 c 593 s 8; 1945 c 498 s 1; 1953 c 649 s 1; 1963 c 740 s 19; 1971 c 749 s 1; 1973 c 650 art 19 s 1; 1976 c 239 s 86] (2316)

291.34 ESTATE TAX. There shall be assessed by commissioner, in addition to the inheritance tax as now provided by sections 291.01 to 291.33, an estate tax upon all estates which are subject to taxation under the present federal revenue act. The tax is hereby imposed upon the transfer of the estate of every person who, at the time of his death, was a resident of this state or was a nonresident with property taxable under this chapter. The amount of the tax shall be computed by the commissioner and shall be assessed as an additional amount of inheritance tax, as fixed in accordance with the provisions of sections 291.34 to 291.40. Except as otherwise provided herein the amount of the tax so assessed shall be the amount by which the maximum credit which the federal government will allow as a credit for state death taxes under the federal estate tax law shall exceed the aggregate amount of all estate, inheritance, legacy, and succession taxes actually paid to the several states of the United States in respect to any property owned by such decedent, or subject to such taxes as a part of or in connection with his estate.

Where the decedent was a nonresident the amount of tax imposed by this section shall be in the same proportion of the maximum tax imposed herein as the value of the property taxable under this chapter bears to the value of the entire estate subject to the estate tax under the Internal Revenue Code as amended.

[1931 c 332 s 1; 1961 c 418 s 1; 1963 c 740 s 20; 1971 c 756 s 1] (2321-1)

291.35 TIME OF PAYMENT. The tax imposed by sections 291.34 to 291.40 shall become due and payable at the expiration of 12 months after the death of the person from whom the transfer is made, and executors, administrators, trustees, grantees, donees, beneficiaries, and surviving joint owners shall be and remain liable for the tax until it is paid. If the tax is not paid when due, a late payment penalty of ten percent of the unpaid tax shall be assessed and the unpaid tax and penalty shall bear interest at the rate specified in section 270.75 from the date that such tax should have been paid until paid.

[1931 c 332 s 2; 1953 c 627 s 1; Ex1971 c 31 art 3 s 5; 1975 c 377 s 25] (2321-2)

MINNESOTA STATUTES 1976

3959

INHERITANCES, DEVISES; BEQUESTS 291.41

291.36 CERTAIN SECTIONS, WHEN VOID. Sections 291.34 to 291.40 shall become void and of no effect in respect to estates of persons who die subsequent to the effective date of the repeal of Title III of the Federal Revenue Act of 1926, or of the provisions thereof providing for a credit of the taxes paid to the several states of the United States, not exceeding 80 percent of the tax imposed by Title III.

[1931 c 332 s 3] (2321-3)

291.37 INTENT. It is hereby declared to be the intent and purpose of sections 291.34 to 291.40 to obtain for this state the benefit of the maximum credit allowed, for state death taxes under the federal estate tax law to the extent that this state may be entitled by the provisions of sections 291.34 to 291.40, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The commissioner may make such regulations relative to the assessment and the collection of the tax provided by sections 291.34 to 291.40, not inconsistent with law, as may be necessary to carry out this intent.

[1931 c 332 s 4; 1963 c 740 s 21] (2321-4)

291.38 APPLICATION. The provisions of sections 291.34 to 291.40 shall also apply to all estates not fully distributed and now in process of settlement, where the date of death was subsequent to February 26, 1926.

[1931 c 332 s 5] (2321-5)

291.39 OTHER LAWS. All provisions of sections 291.01 to 291.33, relating to succession taxes, are hereby made a part of sections 291.34 to 291.40 wherever the same are applicable.

[1931 c 332 s 6] (2321-6)

291.40 APPORTIONMENT OF ESTATE TAX. (a) The liability of each of the beneficiaries for the tax which may be imposed under section 291.34 shall be determined for purposes of this section, first, by apportioning the maximum credit allowed for state death taxes under the federal estate law among the several beneficiaries in accordance with the rules and methods provided by Minnesota Statutes, Sections 525.521 through 525.524; second, by deducting from the amount of the credit so apportioned to each of the beneficiaries the amount of the aggregate of all estate, inheritance, legacy and succession taxes actually paid to the several states of the United States by or on behalf of each of the several beneficiaries. The remainder resulting from each such subtraction shall be the liability of the respective beneficiaries for the tax imposed by section 291.34.

(b) The tax so imposed under (a) above shall be subject to the provisions of Minnesota Statutes, Sections 525.525 through 525.527.

(c) Provided, where the sum of the several liabilities for the tax so determined in (a) above is greater than the tax imposed under section 291.34, the tax shall be proportionately reduced for each of the several beneficiaries.

[1931 c 332 s 7; 1951 c 249 s 1; 1965 c 90 s 1] (2321-7)

291.41 DEFINITIONS. Subdivision 1. **Terms.** For the purposes of sections 291.41 to 291.47 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Executor.** "Executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator.

Subd. 3. **Taxing official.** "Taxing official" means the commissioner of revenue of this state and the officer or body designated as such in the statute of a reciprocal state substantially similar to sections 291.41 to 291.47.

Subd. 4. **Death tax.** "Death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise.

Subd. 5. **Interested person.** "Interested person" means any person who may be entitled to receive, or who has received any property or interest which may be required to be considered in computing the death tax of any state involved.

[1951 c 247 s 1; 1973 c 582 s 3]

291.42 ELECTION TO INVOKE. In any case in which this state and one or more other states each claims that it was the domicile of a decedent at the time of his death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of sections 291.41 to 291.47. Such executor or taxing official shall send a notice of such election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of such notice of election any executor may reject such election by sending a notice, by registered mail, receipt requested, to the taxing officials involved and to all other executors and to all interested parties. When an election has been rejected no further proceedings shall be had under sections 291.41 to 291.47. If such election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely in accordance with the provisions of sections 291.41 to 291.47. No other proceedings to determine or assess such death taxes shall thereafter be instituted in any court of this state or otherwise.

[1951 c 247 s 2]

291.43 AGREEMENTS AS TO DEATH TAX. In any case in which an election is made and not rejected the commissioner of revenue of this state may enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute.

[1951 c 247 s 3; 1973 c 582 s 3]

291.44 DETERMINATION OF DOMICILE. If in any such case it appears that an agreement cannot be reached, as provided in section 291.43, or if one year shall have elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(a) Where only this state and one other state are involved, the commissioner of revenue and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members shall appoint the third member of the board. If this state and more than one other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in three states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select one of its members as chairman.

(b) Such board shall hold hearing at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

(c) Such board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers, and documents, issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by such court.

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

(e) Such board shall determine the domicile of the decedent at the time of his death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purpose.

(f) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executors. If an agreement cannot be reached, such compensation and expenses shall be determined by such taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. Such amount shall be borne by the estate and shall be deemed an administration expense.

(g) The determination of such board and the record of its proceeding shall be filed with the authority having jurisdiction to assess the death tax in the state deter-

MINNESOTA STATUTES 1976

3961

INHERITANCES, DEVISES, BEQUESTS 291.47

mined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

[1951 c 247 s 4; 1973 c 582 s 3]

291.45 ACCEPTANCE OF AGREED SUM IN FULL PAYMENT. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in section 291.44, the commissioner of revenue of this state may in any case enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute, at any time before such proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of section 291.43 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the commissioner of revenue of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to such commissioner under such agreement bears to such aggregate amount.

[1951 c 247 s 5; 1973 c 582 s 3]

291.46 PENALTIES, INTEREST; LIMITATION. When in any case the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed ten percent of the amount of the taxes per annum.

[1951 c 247 s 6; 1975 c 377 s 26]

291.47 APPLICATION. Sections 291.41 to 291.47 apply only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar to sections 291.41 to 291.47.

[1951 c 247 s 7]