

CHAPTER 291

ESTATE TAX

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291.005 DEFINITIONS.

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

(1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(2) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities. The Minnesota gross estate shall be valued pursuant to the provisions of section 291.215, subdivision 1.

(3) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

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

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

(6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

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

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended through March 12, 1983.

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.

History: 1963 c 740 s 26; 1973 c 185 s 1; 1973 c 582 s 3; 1975 c 347 s 2; 1979 c 303 art 3 s 1; 1980 c 439 s 4; 1981 c 49 s 2; 3Sp1981 c 2 art 6 s 1; 1983 c 222 s 22

291.01 TAX IMPOSED.

A tax is hereby imposed upon the transfer of estates of decedents as prescribed by this chapter.

History: 1905 c 288 s 1; 1911 c 372 s 1; 1935 c 334 s 1; Ex1937 c 50 s 3; 1939 c 338 s 1; 1939 c 431 art 6 s 6; 1941 c 470 s 1; 1943 c 504 s 1,2; 1949 c 735 s 1; 1953 c 629 s 1; 1955 c 552 s 1; 1961 c 442 s 1; 1963 c 182 s 1; 1963 c 218 s 1; 1963 c 740 s 1,2; 1965 c 89 s 1; 1965 c 555 s 1; 1967 c 850 s 1; 1978 c 741 s 1; 1979 c 303 art 3 s 2; 1980 c 439 s 5 (2292)

291.015 DETERMINATION OF MINNESOTA TAXABLE ESTATE.

The Minnesota taxable estate of a decedent shall be the Minnesota gross estate less the sum of:

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

(2) The sum of

- \$225,000 for decedents dying in 1982;
- \$275,000 for decedents dying in 1983;
- \$325,000 for decedents dying in 1984;
- \$400,000 for decedents dying in 1985;
- \$500,000 for decedents dying in 1986;
- \$600,000 for decedents dying in 1987 and thereafter,

multiplied by a fraction, not greater than one, the numerator of which shall be the value of the Minnesota gross estate and the denominator of which shall be the value of the federal gross estate.

History: 1979 c 303 art 3 s 3; 1980 c 439 s 6; 3Sp1981 c 2 art 6 s 2; 1982 c 523 art 26 s 2

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

291.03 RATES.

Subdivision 1. **Generally.** The tax imposed shall be an amount equal to the greater of:

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

- 10 percent on the first \$100,000,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess, or

(2) A tax equal to the same proportion of the maximum credit allowable under section 2011 of the Internal Revenue Code for state death taxes described herein as the Minnesota gross estate bears to the value of the federal gross estate. The tax determined under this paragraph shall not be greater than the maximum credit allowable under section 2011 of the Internal Revenue Code.

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Subd. 2. **Intent.** It is hereby declared to be the intent and purpose of this section to obtain for Minnesota the benefit of not less than the maximum credit allowed for state death taxes under the federal estate tax law by imposing the tax provided in this section and the same shall be liberally construed to effect this purpose.

Subd. 3. **1982.** In the case of a decedent dying in 1982, subdivision 1, clause (1), shall be applied by substituting for the rates prescribed therein the following rates:

- 7 percent on the first \$75,000,
- 8 percent on the next \$100,000 or part thereof,
- 9 percent on the next \$100,000 or part thereof,
- 10 percent on the next \$200,000 or part thereof,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess.

Subd. 4. **1983.** In the case of a decedent dying in 1983, subdivision 1, clause (1), shall be applied by substituting for the rates prescribed therein the following rates:

- 7 percent on the first \$25,000,
- 8 percent on the next \$100,000 or part thereof,
- 9 percent on the next \$100,000 or part thereof,
- 10 percent on the next \$200,000 or part thereof,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess.

Subd. 5. **1984.** In the case of a decedent dying in 1984, subdivision 1, clause (1), shall be applied by substituting for the rates prescribed therein the following rates:

- 8 percent on the first \$75,000,
- 9 percent on the next \$100,000 or part thereof,
- 10 percent on the next \$200,000 or part thereof,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess.

Subd. 6. **1985.** In the case of a decedent dying in 1985, subdivision 1, clause (1), shall be applied by substituting for the rates prescribed therein the following rates:

- 9 percent on the first \$100,000,
- 10 percent on the next \$200,000 or part thereof,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess.

Subd. 7. **1986.** In the case of a decedent dying in 1986, subdivision 1, clause (1), shall be applied by substituting for the rates prescribed therein the following rates:

- 10 percent on the first \$200,000,
- 11 percent on the next \$500,000 or part thereof,
- 12 percent on the excess.

History: 1905 c 288 s 2; 1911 c 372 s 2; 1913 c 455 s 1,2; 1919 c 410 s 2a; 1927 c 205 s 1,2; 1939 c 338 s 2a; 1943 c 504 s 3; Ex1959 c 70 art 4 s 1; 1963 c 107 s 1; 1973 c 185 s 2; 1976 c 320 s 1; 1979 c 303 art 3 s 4; 1980 c 439 s 7; 1981 c 49 s 3; 3Sp1981 c 2 art 6 s 3; 1982 c 523 art 26 s 3; 1983 c 222 s 23 (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: (a) to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively; (b) to or for the use of any corporation, fund, foundation, trust, or association operated within this state for religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encouragement of art and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or individual or to a trustee or trustees exclusively for such purposes; (c) to an employee stock ownership trust as defined in section 290.01, subdivision 25, provided that, if the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust; (d) to a clergyman, in an amount not exceeding \$1,000, the proceeds of which are to be used for religious purposes or rites designated by the testator; and (e) to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, education, or public cemetery purposes exclusively, including the encouragement of art, and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or any individual, or to a trustee or trustees exclusively for such purposes, if, at the date of the decedent's death, the laws of the state under the laws of which the transferee was organized or existing, either (i) 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 (ii) 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.

If an interest passes or has passed from the decedent to or for the use of an organization, corporation, fund, foundation, trust or association as described above, and an interest, other than an interest which is extinguished upon the decedent's death, in the same property, passes or has passed from the decedent for a use not described above for less than an adequate and full consideration in money or moneys worth, no exemption is allowed unless the interest was deductible pursuant to section 2055 of the Internal Revenue Code.

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

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

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

History: 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; 1978 c 766 s 11; 1979 c 303 art 3 s 5; 1980 c 439 s 8; 1981 c 49 s 4 (2293)

291.051 MARITAL DEDUCTION.

Subdivision 1. For the purpose of section 291.015, clause (1), the Minnesota taxable estate shall be determined by deducting from the Minnesota gross estate the value of any interest in property other than a terminable interest for which no deduction is allowed under section 2056 of the Internal Revenue Code, which passes or has passed from the decedent to his surviving spouse, but only to the extent that the interest is included in determining the value of the Minnesota gross estate and is not exempt from estate tax under sections 291.05 or 291.065. An interest in property shall be considered as passing from the decedent to his surviving spouse if it is considered as so passing under Section 2056 of the Internal Revenue Code.

Subd. 2. [Repealed, 3Sp1981 c 2 art 6 s 7]

Subd. 3. [Repealed, 3Sp1981 c 2 art 6 s 7]

History: 1976 c 320 s 3; 1978 c 741 s 2; 1979 c 303 art 3 s 6; 1980 c 439 s 9; 3Sp1981 c 2 art 6 s 4; 1982 c 523 art 26 s 4

291.06 CREDIT FOR PREVIOUSLY PAID TAXES.

(1) Where property included in the Minnesota taxable estate of the present decedent can be identified as having been transferred to the decedent from a person who died within five years prior to the death of the decedent, or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes, exclusive of penalty or interest, paid pursuant to the provisions of chapter 291 upon that property in the previous decedent's estate shall be allowed against, but shall not exceed, the estate tax computed in accordance with section 291.03, subdivision 1, clause (1) attributable to the previously taxed property included in the Minnesota taxable estate of the present decedent. For purposes of this section, transfer taxes shall mean the Minnesota inheritance or estate tax or a Minnesota tax based upon the federal credit allowed for state death taxes. Where a Minnesota credit for gift tax paid was allowed to reduce the transfer taxes in the previous estate for a gift to the present decedent of property which is included in the decedent's Minnesota taxable estate, the "transfer taxes" paid in the previous decedent's estate shall be the transfer taxes actually paid plus the amount of the gift tax credit so allowed.

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

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

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

History: 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; 1979 c 303 art 3 s 7; 1980 c 439 s 10 (2293)

291.065 EMPLOYEE RETIREMENT PLANS, EXEMPTION.

To the extent included in the federal gross estate, the value of an annuity or other payment shall be exempt from estate tax if received under (1) any 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, qualified under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code; (2) a benefit plan for employees of the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions or any other state or its political or governmental subdivisions; or (3) for members of a Minnesota volunteer firefighters' relief association.

History: Ex1959 c 83 s 2; 1963 c 105 s 1; 1971 c 789 s 3; 1973 c 582 s 3; 1979 c 303 art 3 s 8; 1981 c 49 s 5

291.07 ADDITIONAL DEDUCTIONS.

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

- (1) funeral expenses;
- (2) reasonable legal, accounting, fiduciary and administration expenses and fees with respect to both probate and nonprobate assets, including but not limited to expenses incurred during administration in converting real and personal property held by the estate into cash;
- (3) expenses of last illness unpaid at death;
- (4) valid claims against and debts of the decedent, unpaid at death, which have been properly paid;
- (5) the portion of the federal estate tax allocable to Minnesota, which shall equal the amount obtained by multiplying the federal estate tax due and payable to the United States Treasury by a fraction, the numerator of which shall equal the value of the Minnesota gross estate reduced by: (a) in the case of a resident decedent, the deductions and exemptions allowed by sections 291.05, 291.051, 291.065, 291.07, subdivision 1, clauses (1), (2), (3), (4), (6), and (7); or (b) in the case of a nonresident decedent the deductions and exemptions allowed by sections 291.05, 291.051, 291.065, 291.08, clauses (1), (2), (4) and (5), and the denominator of which shall equal the value of the federal taxable estate as defined in section 2051 of the Internal Revenue Code; provided, however, in any case where any property is included in the Minnesota gross estate but incorrectly omitted from the federal gross estate or where any property that is included in both the Minnesota gross estate and the federal gross estate is valued at a higher or lower value in determining the Minnesota gross estate than in determining the federal gross estate, the federal taxable estate shall be recomputed for purposes of this provision and shall be based on a federal gross estate including the value of such omitted property and including or excluding the difference in value of such revalued property, and further provided that the federal estate tax deduction shall not exceed the federal estate tax due and payable to the United States Treasury;
- (6) real estate taxes due and payable prior to or in the year of the decedent's death with respect to real estate subject to taxation under this chapter and other

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taxes which have accrued and are a lien on property in the estate at the time of death;

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

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 2a. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3. [Repealed, 1983 c 222 s 45]

History: 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; 1977 c 440 s 1; 1979 c 303 art 3 s 9; 1980 c 439 s 11,12; 1981 c 49 s 6; 1983 c 222 s 24 (2293)

291.075 SPECIAL USE VALUATION OF QUALIFIED PROPERTY.

When property subject to the tax imposed by this chapter qualifies for valuation based on its use pursuant to section 2032A of the Internal Revenue Code, it shall have the same value for Minnesota estate tax purposes as it has for federal estate tax purposes. If, after the final determination of the tax imposed by this chapter, the property valued pursuant to section 2032A of the Internal Revenue Code is disposed of or fails to qualify and an additional tax is imposed pursuant to section 2032A(c), any increase in the credit for state death taxes shall be reported to the commissioner within 90 days after final determination of the increased credit. Upon notification the commissioner may assess an additional tax in accordance with section 291.03, subdivision 1, clause (2). No additional Minnesota estate tax computed in accordance with section 291.03, subdivision 1, clause (1) will be imposed nor will an additional deduction for federal estate taxes paid be allowed under section 291.07 or 291.08.

History: 1979 c 303 art 3 s 10; 1980 c 439 s 13

291.08 NONRESIDENT ESTATES; ALLOWANCE OF ADDITIONAL DEDUCTIONS.

Where a tax is due on the transfer of any property or interest therein owned by a nonresident, the following additional deductions shall be allowed:

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

(2) Reasonable legal, accounting, fiduciary and administration fees and expenses allocable to both probate and nonprobate property included in the Minnesota gross estate;

(3) Federal estate taxes as computed in section 291.07;

(4) Real estate taxes on Minnesota property which are due and payable prior to or in the year of the decedent's death;

(5) Liens and mortgages on property included in the Minnesota gross estate.

History: 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; 1978 c 741 s 3; 1979 c 303 art 3 s 11; 1981 c 49 s 7 (2293)

291.09 DETERMINATION OF TAX.

Subdivision 1. [Repealed, 1979 c 303 art 3 s 41]

Subd. 1a. In all instances in which a decedent dies after December 31, 1979 and before January 1, 1981 leaving a federal gross estate in excess of \$161,000 and in

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all instances in which a decedent dies after December 31, 1980 and before January 1, 1982 leaving a federal gross estate in excess of \$175,000, and the decedent has an interest in property with a situs in Minnesota, the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return.

In the case of a decedent dying after December 31, 1981 who has an interest in property with a situs in Minnesota, the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return in the following instances:

In the case of a decedent dying in	A Minnesota estate tax return shall be filed if the federal gross estate equals or exceeds
1982	\$225,000
1983	275,000
1984	325,000
1985	400,000
1986	500,000
1987 and thereafter	600,000.

The return shall be accompanied by a federal estate tax return and shall contain a computation of the Minnesota estate tax due. The return shall be signed by the personal representative.

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 2a. The commissioner may designate on the return the documents that are required to be filed together with the return in order to determine the proper valuation of assets and computation of tax. The commissioner shall not be bound by any item on the return unless he has received all required documents and unless all items of information on the return have been completed.

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3a. (1) The commissioner may challenge matters of valuation or taxability of any assets reported on the return, or any deductions claimed, or the computation of tax, only if within 180 days from the due date of the return or the receipt of the return and all documents required to be filed with the return, whichever is later, the commissioner mails or delivers a written notice to the personal representative objecting to the return as filed and specifying the reasons for the objection.

(2) If the personal representative disagrees with the objection or does not wish to fully comply with the objection, he may request that the commissioner hold a hearing on the objection. Within 30 days of receipt of a request, the commissioner shall set a time and place for hearing. Unless otherwise agreed upon, the hearing date shall not be earlier than 30 days nor later than 60 days from the date of the notice setting the hearing. The notice of hearing shall set forth the rights available to the personal representative under chapter 14. Not later than 30 days after the commissioner receives the report and recommendation of the administrative law judge, or a written waiver of his hearing rights by the personal representative, the commissioner shall issue an order determining the tax. Any such determination made by the commissioner may be appealed to the tax court as provided in section 271.09.

(3) At any time together with or after the objection, the commissioner, on his own initiative, may set a time and place for a hearing in accordance with (2) above.

(4) In his objection, or at any time thereafter, the commissioner may assess any additional tax as the facts may warrant, subject to the right of the personal

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representative to demand a hearing under chapter 15. If the personal representative does not demand a hearing within 90 days of the date of the assessment, the tax so assessed shall be legally due and the commissioner may proceed to collect any unpaid tax after one year from the date of death. If the commissioner later finds the tax assessment to be erroneous, he may adjust the assessment prior to collection.

(5) The commissioner shall not be required to object to any subsequent original, amended or supplemental return in order to preserve his rights. The commissioner shall not be precluded from objecting to a subsequent original, amended or supplemental return even though an original return was accepted as filed. If the commissioner had accepted an original return showing no tax due and a subsequent original, amended or supplemental return discloses additional assets not disclosed on the original return, the commissioner may object to any matter of valuation, taxability, deduction or computation of tax on the original return within 180 days of receipt of the subsequent original, amended or supplemental return.

(6) Subject to the provisions of sections 291.11 and 291.215, the Minnesota estate tax liability shall be considered as finally determined on the date notification of acceptance is issued to the personal representative or, if no objection is filed, on the day following 180 days from the due date of the return or the receipt of the return, together with all other documents required to be filed with the return, whichever is later.

(7) Subject to the time limits imposed elsewhere in this chapter, the commissioner may refund an overpayment of tax, penalty or interest even though the personal representative has not made an application for refund.

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4a. If any estate tax return required to be filed pursuant to the provisions of this section has not been filed, the commissioner may make and file a return including a computation of the tax resulting from the transfers therein reported. At the time of the filing the commissioner shall mail copies of the return to the personal representative, if any, and to each person from whom any portion of the tax is due. The return may be objected to by the personal representative and a hearing held on the objections in the manner provided in subdivision 3a.

Subd. 5. Notwithstanding other provisions of this chapter, when agreed in writing between the commissioner and the representative, values for purposes of the estate 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.

Subd. 7. The estate tax return, except as otherwise provided in this chapter, shall be filed with the commissioner within nine months after the decedent's death.

History: 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; 1977 c 203 s 1,2; 1977 c 307 s 29; 1978 c 741 s 4; 1979 c 303 art 3 s 12-17; 1980 c 439 s 14,15; 1981 c 49 s 8; 3Sp1981 c 2 art 6 s 5; 1982 c 424 s 130; 1982 c 523 art 26 s 5; 1983 c 222 s 25; 1984 c 640 s 32 (2293)

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

291.11 TIME EFFECTIVE.

Subdivision 1. (1) All taxes imposed by this chapter shall take effect at and upon the death of the person whose estate is subject to taxation and shall be due and

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

(2) (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.

(3) 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.

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

Subd. 5. [Repealed, 1979 c 303 art 3 s 41]

Subd. 6. [Repealed, 1979 c 303 art 3 s 41]

Subd. 7. [Repealed, 1979 c 303 art 3 s 41]

Subd. 8. [Repealed, 1979 c 303 art 3 s 41]

Subd. 9. [Repealed, 1979 c 303 art 3 s 41]

History: 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; 1978 c 741 s 5; 1979 c 303 art 3 s 18; 1980 c 439 s 17 (2294)

291.111 TAXATION OF DISCLAIMED INTEREST.

Subdivision 1. [Repealed, 1980 c 439 s 35]

Subd. 2. An interest in real or personal property shall be treated as though such interest has been duly disclaimed in whole or in part if said interest is disclaimed pursuant to sections 2045 and 2518 of the Internal Revenue Code.

History: 1965 c 552 s 3; 1971 c 757 s 1; 1979 c 303 art 3 s 19; 1980 c 439 s 16

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.

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

History: 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. [Repealed, 1978 c 766 s 20]

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.

History: 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 due to reasonable cause, 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 if no extension had been granted or election to pay the tax in installments had been made until paid. All interest and penalty shall be added to the tax and collected as a part thereof.

History: 1975 c 377 s 21; 1976 c 320 s 6; 1978 c 741 s 6; 1983 c 222 s 26

291.132 EXTENSION TO FILE OR PAY.

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

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

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

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

(2) Interest payable under section 291.15 on any unpaid portion of the amount attributable to any period after the five year period referred to in clause (1) shall be paid annually at the same time as, and as part of, each installment payment of the tax.

(3) If the executor has selected a period shorter than five years under subdivision 2 the shorter period shall be substituted for five years in clauses (1) and (2).

Subd. 4. (1) If the personal representative fails to pay a tax or interest installment on time, unless it is shown that such failure is due to reasonable cause, the election is revoked and the entire amount of unpaid tax plus accrued interest is due and payable 90 days after the date on which the installment was payable. The commissioner is not required to notify the personal representative when an installment is due.

(2) In the event of a disposition or cessation of the special use property, as defined under section 2032A (c) (1) and (6) of the Internal Revenue Code, the personal representative shall immediately notify the commissioner of such cessation, and the entire balance of the tax, plus accrued interest, attributable to that property is due and payable 90 days after the disposition or cessation.

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

History: 1975 c 377 s 22; 1976 c 320 s 7; 1979 c 303 art 3 s 20; 1980 c 439 s 18; 3Sp1981 c 2 art 6 s 6; 1983 c 222 s 27

291.14 PERSONAL LIABILITY OF PERSONAL REPRESENTATIVE AND TRANSFEREE.

The personal representative and person to whom property which is subject to taxation under this chapter is transferred, other than a bona fide purchaser, mortgagee, or lessee, shall be personally liable for such tax, until its payment, to the extent of the value of the property. The exemption from personal liability will extend to all subsequent transferees from bona fide purchasers, mortgagees, and lessees.

History: 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; 1979 c 303 art 3 s 21; 1980 c 439 s 19 (2297)

291.15 INTEREST.

Subdivision 1. If the tax is not paid within nine months from the accruing thereof, interest shall be charged and collected thereon at the rate specified in section 270.75 from the due date until the date the tax is paid. In the event a person or corporation upon proper authorization makes a payment to be applied against the tax thereafter, no interest shall accrue on the amount so paid. All payments shall be applied first to penalties, next to interest and then upon principal.

Subd. 2. If the amount applied against the tax exceeds the tax as determined by the commissioner of revenue, the commissioner shall upon proper application order the refundment without interest. The commissioner of finance shall cause the

refund to be paid out of the proceeds of the tax imposed by this chapter, and so much of the proceeds as are sufficient to make the refund are hereby appropriated.

Subd. 3. Interest shall be paid on installment payments of the tax authorized under section 291.11, subdivision 1, or 291.132, subdivision 2, at the rate of interest in effect pursuant to section 270.75 nine months following the date of death.

History: 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; 1980 c 439 s 20; 1982 c 523 art 26 s 6 (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.

History: 1905 c 288 s 8 (2299)

291.17 [Repealed, 1980 c 439 s 35]

291.18 OVERPAYMENT OF TAX; REFUNDS; APPROPRIATION.

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

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

History: 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; 1977 c 307 s 29; 1980 c 439 s 21 (2301)

291.19 Subdivision 1. [Repealed, 1980 c 439 s 35]

Subd. 2. [Repealed, 1980 c 439 s 35]

Subd. 3. [Repealed, 1980 c 439 s 35]

Subd. 4. [Repealed, 1980 c 439 s 35]

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

Subd. 5. MS 1978 [Repealed, 1979 c 303 art 3 s 41]

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

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

291.20 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

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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, 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 estate 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. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4. [Repealed, 1980 c 439 s 35]

History: 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; 1978 c 741 s 7; 1979 c 303 art 3 s 23 (2303)

291.21 LETTERS OF ADMINISTRATION.

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

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

History: 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)

291.215 VALUATION OF ESTATE; REPORTING.

Subdivision 1. All property includable in the Minnesota gross estate of a decedent shall be valued in accordance with the provisions of sections 2031 or 2032 and, if applicable, 2032A, of the Internal Revenue Code and any elections made in valuing the federal gross estate shall be applicable in valuing the Minnesota gross estate. Except as otherwise provided in section 291.075, the value of all property includable in the Minnesota gross estate of a decedent may be independently determined under said sections for Minnesota estate tax purposes.

Subd. 2. Before the final settlement of an estate the personal representative shall furnish an amended estate tax return listing all property and taxable transfers or other events of which he has become aware since the first estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records and any other information relating to the estate or its value upon request of the commissioner of revenue.

Subd. 3. The personal representative shall file an amended estate tax return within 90 days after any amended estate tax return is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, the personal representative shall file an amended estate tax return with the commissioner of revenue within 90 days after the final determination of the change or correction is made. If the personal representative fails to file an amended estate tax return, the commissioner of revenue may reassess the estate tax.

History: 1979 c 303 art 3 s 24; 1980 c 439 s 22; 1983 c 222 s 28

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

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

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

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

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

291.27 UNPAID TAX; OMITTED PROPERTY.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected from any transferee of property included in the Minnesota estate by action in the court of administration of the estate of the decedent or in a court of general jurisdiction by the personal representative of any estate, the attorney general, or the commissioner in the name of the state.

Any property which for any cause is omitted from the Minnesota estate tax return so that its value is not taken into consideration in the determination of the estate tax, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the estate tax return, except that any personal representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been omitted in the determination of an estate tax, the tax thereon may be determined and recovered in a civil action brought by the attorney general or the commissioner, in the name of the state, in any court of general jurisdiction.

History: 1905 c 288 s 20; 1913 c 574 s 3; 1939 c 338 s 10; 1939 c 431 art 6 s 6; 1947 c 519 s 1; 1963 c 740 s 15; 1979 c 303 art 3 s 25 (2311)

291.29 REPORT OF COUNTY RECORDER.

Subdivision 1. [Repealed, 1979 c 303 art 3 s 41]

Subd. 2. [Repealed, 1979 c 303 art 3 s 41]

Subd. 3. [Repealed, 1979 c 303 art 3 s 41]

Subd. 4. [Repealed, 1979 c 303 art 3 s 41]

Subd. 5. 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.

History: 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 [Repealed, 1979 c 303 art 3 s 41]

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 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.

History: 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; 1981 c 49 s 9 (2314)

291.32 REFUNDING OF TAX.

Subdivision 1. 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 may make application to the commissioner for a determination of the amount which he is entitled to have returned, and on such application shall furnish the commissioner with affidavits and other evidence showing the facts which entitled him to such return and the amount he is entitled to have returned. Upon the filing of such application, the commissioner shall examine the 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. 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 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.

History: 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; 1980 c 439 s 23 (2315)

- 291.33 [Repealed, 1Sp1981 c 1 art 3 s 4]
- 291.34 [Repealed, 1979 c 303 art 3 s 41]
- 291.35 [Repealed, 1979 c 303 art 3 s 41]
- 291.36 [Repealed, 1979 c 303 art 3 s 41]
- 291.37 [Repealed, 1979 c 303 art 3 s 41]
- 291.38 [Repealed, 1979 c 303 art 3 s 41]
- 291.39 [Repealed, 1979 c 303 art 3 s 41]
- 291.40 [Repealed, 1979 c 303 art 3 s 41]

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291.41 DEFINITIONS.

Subdivision 1. 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" 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" 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" 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" means any person who may be entitled to receive, or who has received any property or interest which may be required to be considered in computing the death tax of any state involved.

History: 1951 c 247 s 1; 1973 c 582 s 3

291.42 ELECTION TO INVOKE.

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

History: 1951 c 247 s 2; 1978 c 674 s 60

291.43 AGREEMENTS AS TO DEATH TAX.

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

History: 1951 c 247 s 3; 1973 c 582 s 3

291.44 DETERMINATION OF DOMICILE.

If in any such case it appears that an agreement cannot be reached, as provided in section 291.43, or if one year shall have elapsed from the date of the election

without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

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

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

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

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

(5) Such board shall determine the domicile of the decedent at the time of 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.

(6) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executors. If an agreement cannot be reached, such compensation and expenses shall be determined by such taxing officials; and, if they cannot agree, by the appropriate 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.

(7) The determination of such board and the record of its proceeding shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

History: 1951 c 247 s 4; 1973 c 582 s 3

291.45 ACCEPTANCE OF AGREED SUM IN FULL PAYMENT.

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

estate tax imposed with respect thereto, the executor forthwith shall also pay to the commissioner of revenue of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to such commissioner under such agreement bears to such aggregate amount.

History: 1951 c 247 s 5; 1973 c 582 s 3

291.46 PENALTIES, INTEREST; LIMITATION.

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

History: 1951 c 247 s 6; 1975 c 377 s 26

291.47 APPLICATION.

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

History: 1951 c 247 s 7

291.48 PUBLICITY OF RETURNS; INFORMATION.

It shall be unlawful for the commissioner or any other public official, employee or former employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by this chapter or chapter 292 or information acquired while examining or auditing any taxpayer's liability for taxes thereunder, except in connection with a proceeding involving taxes due under this chapter or chapter 292 from the taxpayer making the return. The commissioner may furnish a copy of any return or report to any official of the United States or any state having duties to perform in respect to the assessment or collection of any inheritance, estate, or gift tax, if the taxpayer is required by the laws of the United States or of the other state to make a return therein. Prior to the release of any information to any official of the United States or any other state under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that he will protect the confidentiality of the returns and information revealed to the extent that it is protected under the laws of the state of Minnesota. The commissioner and all other public officials and employees shall keep and maintain the same secrecy with respect to any information furnished by any department, commission, or official of the United States or of any other state. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular property, decedents, heirs, or personal representatives, returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

The report or return of a decedent or donor shall, upon written request, be open to inspection by or disclosure to (1) the administrator, executor, or trustee of his estate, and (2) any heir at law, next of kin, or beneficiary under the will of the decedent, and any other person whose basis in property is determined in whole or part by values set forth in the return, or (3) a donee of the property, or (4) a holder of an interest in the property, but only if the commissioner finds that the heir, next of kin, beneficiary or other person or donee has a material interest which will be affected by information contained therein.

For purposes of this section the term public official shall not include judges, officials or employees of a court having jurisdiction of probate proceedings, county recorders, county treasurers, and employees in their respective offices.

History: 1979 c 303 art 3 s 26; 1980 c 439 s 26; 1981 c 49 s 10