

**2014 ESTATE AND GIFT TAX
LEGISLATIVE BULLETIN
(2014 Regular Session)**

MINNESOTA • REVENUE

Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

Bulletin Date: June 3, 2014

The provisions discussed in this bulletin can be found in 2014 Minn. Laws, Chapter 150, Article 3 and Chapter 308, Article 4.

ESTATE AND GIFT TAX

Filing requirement for estate tax. Minn. Stat. § 289A.10, subd. 1, was amended to increase the filing requirement from the current \$1,000,000 of assets to \$1,200,000 for 2014 estates; \$1,400,000 for 2015 estates; \$1,600,000 for 2016 estates; \$1,800,000 for 2017 estates; and \$2,000,000 for 2018 estates. Effective retroactively for estates of decedents dying after December 31, 2013.

Obsolete extension to file estate tax. Minn. Stat. § 289A.18, subd. 3, was amended to remove obsolete language that allowed additional time to file a Minnesota estate tax return for decedents dying in 2010. Effective March 22, 2014.

Federal update of estate tax. Minn. Stat. § 291.005, subd. 1 (3), was amended to update the reference to the Internal Revenue Code (Code) from January, 3, 2013 through March 26, 2014. Sections of the Code are used in Chapter 291 to describe how the Minnesota estate tax is calculated. However, none of the Code sections used have changed during the January, 2013 to March, 2014 time period. The definition of “Minnesota adjusted taxable estate” was also moved from Minn. Stat. § 291.005 to a new Minn. Stat. § 291.016, described below. Effective retroactively for estates of decedents dying after December 31, 2013.

Definition of federal gross estate. Minn. Stat. § 291.005, subd. 1(2) was amended to change the definition of “federal gross estate” to increase the gross estate under the Code of a now deceased surviving spouse who made a Minnesota only “qualified terminable interest property” (QTIP) election under new Minn. Stat. § 291.03, subd.1d, by the value of the QTIP assets. This change has the effect of increasing the gross estate for the filing requirement for a Minnesota estate under Minn. Stat. § 289A.10 by the value of the QTIP assets and increasing the “Minnesota gross estate” in Minn. Stat. § 291.005, subd. 1(5) by the value of the Minnesota only QTIP assets situated in Minnesota. Effective retroactively for estates of decedents dying after December 31, 2013.

Definition of situs of property. Minn. Stat. § 291.005, subd. 1 (8) was amended to provide that a “qualified work of art” which is on loan to an art museum in Minnesota and is owned directly or by a flow thru entity by a decedent not domiciled in Minnesota at death will not be considered as having situs in Minnesota. Effective retroactively for estates of decedents dying after December 31, 2013.

Definition of Minnesota taxable estate. Minn. Stat. § 291.016, was added as a new statute which replaced the Minn. Stat. § 291.005 definition of “Minnesota adjusted taxable estate” with the new definition “Minnesota taxable estate.” There are two substantive differences between the new and old definition. The first difference is the old definition allowed a deduction of up to \$4,000,000 for qualified farm or business property. The new definition allows a maximum deduction decreasing from \$3,800,000 to \$3,000,000 depending on the decedent’s year of death. This reduction is made

up for by an increase in the general estate tax exclusion in the next section. The second difference requires the inclusion in the taxable estate of a surviving spouse who makes a Minnesota only qualified terminable interest property (QTIP) election the value of the QTIP assets not included in the federal taxable estate. Effective retroactively for estates of decedents dying after December 31, 2013.

Calculation of Minnesota estate tax. Minn. Stat. § 291.03, was amended by replacing the current method of computing the Minnesota tax, which was based on pre-2001 federal law. Under this method, the estate calculated two sums based on pre-2001 federal law and paid the lesser amount. In effect, under this method, the marginal Minnesota estate rate on about the first \$94,000 over the \$1,000,000 exclusion amount was 41%. After the first \$94,000, the marginal rate fell back to a 5.6% rate and then gradually increased to a maximum 16% rate for estates over \$10,000,000.

Under the new rate structure the exclusion amount is raised by \$200,000 each year, ending with an exclusion of \$2,000,000 in 2018. Marginal rates in 2014 range from 9% to 16%. Marginal rates in 2015 through 2018 range from 10% to 16%.

Due to the elimination of the 41% bubble rate and the increased exclusion amount, even though the bottom rates start at 9% and 10%, every estate will see a net tax decrease with the largest decreases being at the low end of estates paying the tax. The new method is effective retroactively for estates of decedents dying after December 31, 2013.

Estate tax elections. A new section was added to Minn. Stat. § 291.03. The new subdivision provides that Minnesota allows federal estate tax elections other than a QTIP election available under the Code only if a federal estate tax return is required to be filed, and the election is made federally. It does, however, allow a QTIP election on the Minnesota return; even if a federal election is not made. Effective for estates of decedents dying after December 31, 2013.

Credit for estate taxes paid to another state. Minn. Stat. § 291.031, was added as a new section, which provides a new home for the credit for taxes paid to another state for nonresident on flow-through assets with Minnesota situs. The credit in Minn. Stat. § 291.03, subd. 1c, is moved without change to Minn. Stat. § 291.031, and is repealed in repealer below. In the second tax bill (Chapter 308) a citation in this new section was corrected from “this section” to “section 291.03”. Both changes are effective for estates of decedents dying after December 31, 2013.

Effective date of inclusion of gifts made within 3 years of death. Minn. Laws 2014, Chapter 308, Article 4, Section 20 clarified that only gifts made after June 30, 2013 and made within three years of death are part of the Minnesota taxable estate. Effective May 21, 2014.

Definition of taxable gift included in Minnesota taxable estate. Minn. Laws 2014, Chapter 308, Article 4, Section 21 clarified that only Minnesota sited gifts that are federal taxable gifts after taking into account all of the various transfers that are excluded from federal taxable gifts are subject to the within three years of death inclusion in the Minnesota taxable estate. Effective retroactively for estates of decedents dying after June 30, 2013, but before January 1, 2014.

Repealer. Repealed the Minnesota Gift Tax (Chapter 292) enacted in the 2013 legislative session. Effective retroactively for gifts made after June 30, 2013.

Repealed Minn. Stat. § 291.03, subd. 1b, which was a QTIP-election provision that only applied to 2010 estates. Effective retroactively for estates of decedents dying after December 31, 2013.

Repealed Minn. Stat. § 291.03, subd. 1c, which provided nonresidents a credit for estate tax paid to another state. This repeal has no substantive effect since the credit is moved to a new part of Chapter 291. Effective retroactively for estates of decedents dying after December 31, 2013.

The law (Minn. Stat. §§ 291.41 through 291.47) authorizing arbitration of disputes between or among states over their jurisdiction to impose estate or inheritance taxes on a decedent's estate was also repealed. This law was enacted in 1951 and has never been used. Effective May 21, 2014.