

This notice was revoked and replaced on May 8, 2006 by Revenue Notice # 06-04. Please see Revenue Notice # 06-04.

Minnesota revenue notice number 02-16

Estate Tax - Issues for Estates Required to File a Minnesota Return but not a Federal Return

Due to the changes in the federal estate tax made in 2001 effective for estates of decedents dying after December 31, 2001 and the Minnesota response in 2002 to not adopt the federal changes, a number of issues need to be clarified in computing and administering the Minnesota estate tax where an estate is required to file a Minnesota estate tax return (gross estate in excess of \$700,000) and a federal estate tax return is not required (gross estate of less than \$1,000,000).

1. If a Minnesota estate tax return is required to be filed, a federal estate tax return is not required to be filed, and the estate needs more time to meet the due date (9 months from date of death) for filing and paying the Minnesota estate tax, the Commissioner of Revenue will abate the penalties for late filing and late payment of the Minnesota estate tax if the estate makes a payment by the due date of a "reasonable estimate" of the Minnesota estate tax (estate's payment should be accompanied by Minnesota Form PV86), and files the return and pays the remaining tax within 15 months of the decedent's date of death. For the purposes of this notice, a payment of 90 percent of the amount of Minnesota estate tax shown on the return will be presumed to be a "reasonable estimate." *

2. If a Minnesota estate tax return is required to be filed, but a federal estate tax return is not, the estate must use the date of death values of assets since alternative value (value of asset six months from date of death) is not available. The alternative value cannot be elected federally (I.R.C. section 2032 (c)) since there will not be a federal tax using date of death value and Minnesota allows only alternative valuation if it is elected federally (Minnesota Statutes, section 291.215).

3. Similarly, special use valuation of farmland cannot be used for Minnesota estate tax unless special use valuation of the farmland is elected federally on a federally (I.R.C. section 2032A) filed estate tax return (Minnesota Statutes, section 291.215).

4. Finally, in the case of deductions which can be claimed on either the federal estate tax return or the estate's federal fiduciary income tax return, but not on both (by an election under I.R.C. section 642(g)) if a federal estate tax return is not required and a Minnesota estate tax return is required, the deductions can be claimed on the Minnesota estate tax return and still be claimed on both the estate's federal and Minnesota fiduciary income tax return.

* Paragraphs 1 and 4 of this notice have been legislatively changed in the 2003 Legislation (see Minn. Laws 2003, Chapter 127, Article III, Sections 2 and 17), which:

1. allows the Department of Revenue to allow extensions of up to six months for the filing of Minnesota estate tax returns, and

2. precludes the deduction of administrative expenses in the computation of the Minnesota estate tax if the expenses have been or will be deducted in computing the estate's federal fiduciary income tax.

Effective for estates of decedents dying after December 31, 2002.

Date: September 30, 2002

Jennifer Engh
Assistant Commissioner for Tax Policy