

This notice was revoked and replaced on March 5, 2012 by Revenue Notice # 12-05.

Department of Revenue

Revenue Notice # 10-03: Estate Tax – Estates Required to File a Minnesota Return but not a Federal Return – Revocation of Revenue Notice # 06-04

Introduction

In computing the Minnesota estate tax where an estate is required to file a Minnesota estate tax return and a federal estate tax return is not required, the Minnesota Department of Revenue's position is as provided below. This notice revokes and replaces Revenue Notice # 06-04.

For estates of decedents who die in 2010, this notice reflects a change to Minnesota Statutes since Revenue Notice # 06-04 was issued. This statutory change provides a qualified terminable interest property election for estates of decedents who die in 2010. This notice also reflects the Internal Revenue Code, which does not impose an estate tax on estates of decedents who die in 2010.

For estates of decedents who die in years other than 2010, this notice restates the position previously announced in Revenue Notice # 06-04.

For all estates, if the Internal Revenue Code or Minnesota Statutes change, the department's position may change.

Department Position

Abatement of Penalties

If 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 if the estate pays a "reasonable estimate" of the Minnesota estate tax by the due date (estate's payment should be made electronically or accompanied by Minnesota Form PV86). The estate must file the return and pay 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."

Valuation Date

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 (*Internal Revenue Code*, 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.

Elections

For estates of decedents who die in 2010, elections provided by the Internal Revenue Code are not available for Minnesota purposes. This includes the special land use valuation election (*Internal Revenue Code*, section 2032A) and qualified domestic trust election (*Internal Revenue Code*, section 2056A). However, to the extent provided by *Minnesota Statutes*, section 291.03, subdivision 1b, the qualified terminable interest property election (*Internal Revenue Code*, section 2056(b)(7)) is available. Minnesota limitations include that the qualified terminable interest property election is irrevocable and cannot reduce the taxable estate below \$3.5 million.

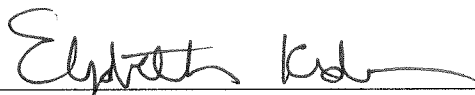
For estates of decedents who die in years other than 2010, elections provided by the Internal Revenue Code are only available for Minnesota purposes if the estate files a federal estate tax return and makes the election at the federal level. These elections include the special land use valuation election (*Internal Revenue Code*, section 2032A), qualified terminable interest property election (*Internal Revenue Code*, section 2056(b)(7)), and qualified domestic trust election (*Internal Revenue Code*, section 2056A).

Administrative Expenses

Deductions for administrative expenses of the estate that can be claimed on either the federal estate tax return or the estate's federal fiduciary income tax return can only be claimed on the Minnesota estate tax return if the expenses are not claimed as a deduction on the estate's federal fiduciary income tax return or returns (*Minnesota Statutes*, section 291.03).

Revenue Notice # 06-04 is revoked and replaced with this notice.

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for Tax Policy and External Relations