DEPARTMENT OF REVENUE

ESTATE TAX
Federal Conformity / Eminent Domain

May 11, 2017

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of H.F. 4, Conference Committee Report, Article 1 Sec. 4, 38, 39, 48

	Fund Impact			
	F.Y. 2018	F.Y. 2019	F.Y. 2020	F.Y. 2021
	(000's)			
Federal Conformity	($70,600)	($91,100)	($94,400)	($100,600)
Eminent Domain	($10)	$0	$0	$0
General Fund	($70,610)	($91,100)	($94,400)	($100,600)

Federal Conformity – Effective retroactively for estates of decedents dying after December 31, 2016
Eminent Domain – Effective retroactively for estates of decedents dying after June 30, 2011 and before January 1, 2017

EXPLANATION OF THE BILL

Current Law

Federal Conformity

In the 2014 legislative session, the Minnesota estate tax was changed to a stand-alone tax. In conjunction with those changes, the amount of taxable estate excluded from taxation under current law increases incrementally by $200,000 per year from $1.2 million for decedents who died in 2014 to $2.0 million for decedents who die in 2018 and later. The tax rates vary from a low of 9% (2014) or 10% (2015 and later) to a high of 16%.

Also under current law, the maximum small business and farm subtraction is reduced incrementally by $200,000 per year from $3.8 million for decedents who die in 2014 to $3.0 million for decedents who die in 2018 and later. If an estate makes use of the small business and farm subtraction and if a qualified heir of the estate disposes of small business or farm property within three years of the death of the decedent, a recapture tax is imposed. The amount of the recapture tax is 16% of the amount of the small business and farm subtraction claimed when the estate tax return was filed.

Eminent Domain

Property claimed as qualified small business or farm property on an estate tax return might be taken by a government authority having the power of eminent domain. If this were to happen within three years of the death of the decedent, current law could require that a recapture tax be paid.

EXPLANATION OF THE BILL (Cont.)

Proposed Law

Federal Conformity

Under the proposal, for estates of decedents who die in 2017 and thereafter, the exclusion amount would be increased to the federal exclusion amount under section 2010(c)(2) of the Internal Revenue Code. This exclusion amount consists of the basic exclusion amount plus any deceased spousal unused exclusion amount. The basic federal exclusion amount for estates of decedents who die in 2017 is $5.49 million. It is indexed by inflation. The Minnesota taxable estate, after subtracting the applicable exclusion amount, would be taxed at the following rates:

MN Taxable Estate		
From	To	Rate
0	7,100,000	13.0%
7,100,000	8,100,000	13.6%
8,100,000	9,100,000	14.4%
9,100,000	10,100,000	15.2%
10,100,000	and over	16.0%

In addition, the small business and farm subtraction and the recapture tax would be eliminated, effective for deaths after December 31, 2016.

Eminent Domain

Under the proposal, the recapture tax would not apply if the qualified property were taken by a government authority having the power of eminent domain, so long as the transaction leading to the disposition is initiated by the government authority.

REVENUE ANALYSIS DETAIL

Federal Conformity

- A database of estate tax returns filed in 2012 through 2014 was created and used for this analysis.
- The estate tax statutes were changed in 2013. The estate taxes for returns in the database were recalculated to reflect those 2013 changes because most of the returns were filed before the 2013 changes were in effect.
- The increased amounts excluded from taxation and the tax rates were used to recalculate the estate taxes for the returns in the database.

REVENUE ANALYSIS DETAIL (Cont.)

- Comparing those calculations, the total estate tax for returns in the database decreased by the following ratios:
  - 56.0% for 2017
  - 53.6% for 2018
  - 54.1% for 2019
  - 54.5% for 2020.

  Those reduction ratios were applied to the estate tax estimates in the February 2017 estate tax forecast.
- Because the returns in the database reflect the estate tax before the 2014 law changes, appropriate adjustments to the calculation were made in order to apply the above reduction factors.
- It is assumed that the estate tax is paid nine months after the death of the deceased.

Eminent Domain

- Because the recapture tax is 16% of the total amount of the property deducted, even if only a portion was taken by eminent domain, an estate would likely not claim certain property as qualified if there were an indication that the property might be taken by eminent domain within the three-year period. Under the proposal, the estate probably would claim the property as qualified, resulting in a revenue loss to the state.
- It is expected that this situation would not occur frequently. If on average one piece of qualified property valued at $500,000 were taken each fiscal year by a government authority, the revenue loss could be 10% of the value of the property, or $50,000.
- Given the nine-month delay before filing estate tax returns, only a few months of returns will be filed after enactment and before repeal of the farm and small business subtraction and recapture tax. One-fourth of a year's impact is allocated to FY 2018.

Number of Taxpayers: Approximately 2,400 estates tax returns were filed in 2014 with about 1,100 owing tax. Under federal conformity, the number of estates that would owe the estate tax could be fewer than 100 estates.

Source: Minnesota Department of Revenue
Tax Research Division
www.revenue.state.mn.us/research_stats/Pages/Revenue-Analyses.aspx

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