

# MINNESOTA · REVENUE

## Department Policy Bill

March 14, 2012

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue  
Analysis of S.F. 2135 (Ortman) / H.F. 2691 (Davids)

	<u>Fund Impact</u>			
	<u>F.Y. 2012</u>	<u>F.Y. 2013</u>	<u>F.Y. 2014</u>	<u>F.Y. 2015</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

### EXPLANATION OF THE BILL

A summary prepared by the Appeals and Legal Services Division of the Department of Revenue is attached.

### REVENUE ANALYSIS DETAIL

The provisions of the bill are not expected to have an impact on state revenues.

Source: Minnesota Department of Revenue  
Tax Research Division  
[http://www.taxes.state.mn.us/taxes/legal\\_policy](http://www.taxes.state.mn.us/taxes/legal_policy)

sf2135(hf2691)\_1 / cc

# 2012 DEPARTMENT OF REVENUE POLICY BILL SUMMARY

## MINNESOTA • REVENUE

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

S.F. 2135 / H.F. 2691

### ARTICLE 1: ESTATE TAXES

**Section 1. Family member.** Amends Minn. Stat. § 291.03, subd. 8, to provide that a trust whose beneficiaries are all family members qualifies as a family member for purposes of the qualified small business property and qualified farm property exclusion. Effective for estates of decedents dying after June 30, 2011.

**Sections 1, 2, and 4. Qualified small business property.** Amends Minn. Stat. § 291.03, subds. 9 and 11, the qualified small business property exclusion, to:

- clarify that during the taxable year that ended before decedent's death: (1) the trade or business must not have been a passive activity and (2) the decedent or the decedent's spouse must have materially participated in the trade or business;
- exclude publicly traded securities and assets not used in the operation of the trade or business;
- exclude agricultural land (this property may qualify for the qualified farm property exclusion provided by Minn. Stat. § 291.03, subd. 9);
- allow, in the case of a sole proprietor, that if property is replaced by similar property within the three-year period prior to decedent's death, the replacement property will be treated as having met the three-year ownership test prior to decedent's death; and
- provide that for three years following the decedent's death: (1) the trade or business must not be a passive activity and (2) a family member must materially participate in the trade or business.

Also amends a cross reference in Minn. Stat. § 291.03, subd. 8. Effective for estates of decedents dying after June 30, 2011.

**Sections 3 and 4. Qualified farm property.** Amends Minn. Stat. § 291.03, subds. 10 and 11, the qualified farm property exclusion, to:

- clarify that the property must be agricultural land and owned by a person or entity that is not excluded from owning agricultural land by section 500.24;
- remove the requirement that for three years after decedent's death a family member must continuously use the property in the operation of the trade or business; and
- require that for three years after decedent's death the property must be classified for property tax purposes as class 2a agricultural property.

Effective for estates of decedents dying after June 30, 2011.

**Section 4. Recapture tax.** Amends Minn. Stat. § 291.03, subd. 11, to provide in the case of a sole proprietor that the qualified heir will not be treated as having disposed of an interest in the qualified property if the qualified heir replaces qualified small business property with similar property. Effective for estates of decedents dying after June 30, 2011.

## ARTICLE 2: PROPERTY TAXES

**Section 1. Commissioner to collect air flight property tax.** Amends Minn. Stat. § 270.077 to clarify that the commissioner of revenue collects the air flight property tax. Current law only requires the tax to be credited to the state airports fund but does not specifically require the commissioner to collect the tax. Effective for reports filed July 1, 2012 and thereafter.

**Section 2. Sliding scale exclusion.** Amends Minn. Stat. § 272.0211 to provide that the sliding scale market value reduction for efficient electric generating plants begins with the current assessment year for determinations made before July 1 and the year immediately following the determination if the determination is made after July 1. Under current law the reduction is effective the year immediately following the determination that the electric plant qualifies for the reduction in all cases. This will eliminate most swings in value when an electrical plant comes on line valued at a high value and then the value is reduced in the next year. Effective beginning with assessment year 2013.

**Sections 3 and 5. Agricultural homesteads.** Amends Minn. Stat. § 272.03, subd. 9, to modernize the definition of “person” for property tax purposes, which includes the use of the term in the agricultural land use classification statute. Amends Minn. Stat. § 273.13, subd. 23, para. (e) and (f), to clarify provisions in the agricultural land use classification statute that: (i) classify lands used for intensive livestock and poultry confinement operations as agricultural even if the confinement area is less than 10 acres in size; (ii) allow the classification for land in CRP, RIM, or similar programs, when the land was used agriculturally prior to enrollment; (iii) provide a 10-acre “safe harbor” for agricultural use, which includes eleven-acre parcels if they have a house, because one acre surrounding the house is required to be treated as in residential use; and, (iv) grant the classification to small parcels with a residence when the agricultural use is one of the three enumerated, intensive uses. Effective the day following final enactment.

**Section 4. Ownership changes.** Amends Minn. Stat. § 273.114, subd. 6 (the “rural preserve property tax program”), by adding the new paragraph (b), which states that new owners may qualify without an intervening period of disqualification. This avoids deferred taxes becoming payable when both the prior owner and the new owner qualify. The new paragraph (c) provides that the new owner will qualify in the following situations: 1) a transfer of the property to a surviving owner due to death; 2) a transfer of the property to a spouse by reason of marriage or divorce; or 3) a transfer of the property to a trust or authorized farming partnership, corporation, or company when the same people retain the same beneficial interests. Effective the day following final enactment.

**Section 6. Class 4bb residential classifications.** Amends Minn. Stat. § 273.13, subd. 25, para. (c), to eliminate the two separate property tax classifications in class 4bb for nonhomestead single-unit residences that are located on either non-agricultural property (currently class 4bb(1)), or agricultural property (currently class 4bb(2)). Effective for taxes payable in 2013 and thereafter.

**Section 7. Administrative appeals for railroads and utilities.** Amends Minn. Stat. § 273.372, subd. 4, to allow railroads until the earlier of June 15 or ten days after the date of the valuation, and utilities until the earlier of July 1 or ten days after the valuation; to file an administrative appeal of their property tax valuations. Current law allows both railroads and utilities to file appeals until May 15 or ten days after the date of the valuation, whichever is earlier. Effective beginning with assessment year 2013.

## ARTICLE 3: SALES AND USE TAXES

**Section 1. Exemption certificate taken in good faith.** Amends Minn. Stat. § 297A.665 to define the term “taken in good faith” for purposes of seller relief from liability when a seller obtains a fully completed exemption certificate within 120 days after a request by the commissioner for substantiation of the exemption, and to provide that the relief is not available if the commissioner finds that at the time the exemption certificate or information is obtained by the seller, the seller had knowledge or reason to know that the information relating to the exemption was materially false, or finds that the seller knowingly participated in activity intended to purposefully evade the tax due. These provisions are necessary for conformity with the Streamlined Sales Tax Agreement. Effective the day following final enactment.

## ARTICLE 4: SPECIAL TAXES

### Insurance

**Sections 1, 7, 10, and 11. Auto theft prevention surcharge.** Amends Minn. Stat. ch. 297I to create new sections 297I.11 and 297I.30, subd. 10, repeals Minn. Stat. § 168A.40, subds. 3 and 4, and replaces a repealed cite in section 65B.84, subd. 1. These new sections authorize the department of revenue to collect the surcharge imposed under Minn. Stat. ch. 65B for the automobile theft prevention program. Previously, the department of public safety was required to collect the surcharge. However, under an inter-agency agreement, the surcharge has been collected by the department of revenue. This proposed change codifies the current agreement and authorizes the department of revenue to administer the surcharge in the manner it administers other taxes imposed under Minn. Stat. ch. 297I. Effective for premiums collected after June 30, 2012.

**Section 5. Nonadmitted insurance tax.** Amends Minn. Stat. § 297I.05, subd. 7, to include purchasing groups that purchase insurance directly from a nonadmitted insurer. Effective for premiums received after December 31, 2012.

**Section 6. Tax on purchasing groups.** Amends Minn. Stat. § 297I.05, subd. 12, to remove the tax on purchasing groups that purchase insurance directly from a nonadmitted insurer. This tax will be included in § 297I.05, subd. 7, similar to other entities that purchase insurance from nonadmitted insurers. Effective for premiums received after December 31, 2012.

**Sections 8 and 9. Purchasing groups due date.** Amends Minn. Stat. § 297I.30, subds. 1 and subd. 2, to change purchasing groups’ due date for filing returns from twice a year to once a year. This is consistent with the annual return due for other entities that buy directly from unauthorized insurers rather than from licensed insurance companies or surplus lines brokers. Effective for premiums received after December 31, 2012.

### Mortgage and Deed

**Section 2. Deed tax; consideration.** Amends Minn. Stat. § 287.20, subd. 2, para. (g), to modify the rebuttable presumption in current law that, for deed tax purposes, the consideration for a deed is an amount that is at least equal to the market value of the property. The presumption will be the latest assessor’s estimated market value, and will apply in all non-gift situations instead of only when the consideration is not expressed as a dollar amount. Effective for deeds executed and recorded after June 30, 2012.

## **Cigarette and Tobacco Products**

**Section 3. Wholesale sales price.** Amends Minn. Stat. § 297F.01, subd. 23, which provides a definition of wholesale sales price, in reaction to recent Minnesota Tax Court cases. References to price list in current law are deleted and replaced with language referencing the price at which a distributor purchases a tobacco product. Effective for purchases made after December 31, 2012.

## **Liquor Tax**

**Section 4. Brewer credit.** Amends Minn. Stat. § 297G.04, subd. 2, to eliminate confusion caused by reference to fiscal and calendar year and to clarify what is meant by the terms “owned or controlled.” Effective for claims filed after December 31, 2012.

## **ARTICLE 5: MISCELLANEOUS**

**Section 1. Notice by electronic means.** Amends Minn. Stat. § 270C.38, subd. 1, to provide that notice of determinations and actions of the commissioner sent by electronic means is sufficient notice if the taxpayer or other person agrees to accept notice electronically. Effective the day following final enactment.

**Section 2. Electronic wage levy system.** Amends Minn. Stat. § 270C.69, subd. 1, to require wage levy disclosure statements and wage levy payments to be made electronically. Effective for wage levy disclosure statements and wage levy payments filed or made after December 31, 2012.