MINNESOTA · REVENUE

ESTATE TAX
Taxation of Nonresident Property
Held in Pass-Through Entities

March 6, 2013

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of H.F. 806 (Mullery)

	Fund Impact			
	F.Y. 2014	**F.Y. 2015**	**F.Y. 2016**	**F.Y. 2017**
		(000's)		
General Fund	$5,400	$7,400	$7,600	$7,700

Effective for decedents dying after December 31, 2012.

EXPLANATION OF THE BILL

Current Law: If a decedent was a nonresident of Minnesota, and if the decedent had an ownership interest in a pass-through entity containing real or tangible Minnesota property, the property would not be subject to the Minnesota estate tax since the property would be considered intangible personal property and hence allocated to the decedent's state or country of domicile at the time of the decedent's death.

Proposed Law: If a decedent was a nonresident of Minnesota, and if the decedent had an ownership interest in a pass-through entity containing real or tangible Minnesota property, such real or tangible property would be considered to be located in Minnesota in spite of the existence of the pass-through entity as long as the property was personally owned by the decedent. A pass-through entity includes an entity taxed as an S corporation; an entity taxed as a partnership; a single member limited liability company or similar entity, including those disregarded for federal income tax purposes; and a trust.

The proposal also creates a nonresident decedent tax credit which would reduce the Minnesota estate tax which would otherwise be owed. The credit is equal to the lesser of:

- The amount of any death tax paid to another state that is attributable to the property sited in Minnesota and held in the pass-through entity, or
- The amount of the tax paid to Minnesota that is attributable to the property sited in Minnesota and held in the pass-through entity.

The amount of the tax attributable to the property sited in Minnesota and held in the pass-through entity would be equal to the increase in the death tax that results from including the value of the property in the necessary tax calculations.

REVENUE ANALYSIS DETAIL

- The estimate is based on the February 2013 forecast.
- The portion of the estate tax paid from the estates of nonresidents is estimated to be about 2.4%.
- From Department of Revenue data it is estimated that the ratio of nonhomestead property not subject to estate taxation for nonresidents to nonhomestead property currently subject to estate taxation for nonresidents is about 4.0.
- From other department data it is estimated that pass-through entities comprise about 48.5% of the business property in the state. Therefore, the ratio of pass-through property to non-homestead property currently subject to estate taxation for nonresidents would be about 1.9.
- The impact on non-business related pass-through entities is estimated to be $200,000 per year.
- For purposes of this analysis, it is assumed that the impact of the nonresident decedent tax credit would be about 5%.
- It is assumed that the returns are filed and the tax is paid nine months after the death of the decedent.

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

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