

# 2018 Estate Tax Form M706 Instructions

For estates of decedents whose dates of death are in calendar year 2018

## Questions?

You can find forms and information, including answers to frequently asked questions and options for paying electronically, on our website at:

**www.revenue.state.mn.us**

Send us an email at:

BusinessIncome.tax@state.mn.us

Call us at:

**651-556-3075**

Weekdays, 8 a.m. to 4:30 p.m.

Or write to:

Minnesota Revenue

Mail Station 1315

St. Paul, MN 55146-1315

## Forms You May Need

**M706** Estate Tax Return

**M706Q** Election to Claim the Qualified Small Business and Farm Property Deduction

## Need Forms?

Go to **www.revenue.state.mn.us** to download forms and other information, including:

- Estate Tax Fact Sheet 2, *Qualified Small Business Property and Qualified Farm Property Deduction*
- Revenue Notice regarding the alternative value, special use valuation and administrative deductions

We'll provide information in another format upon request to persons with disabilities.

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## What's New for 2018

### Estate Tax Exclusion and Filing Requirement

The exclusion amount and filing requirement for the estate tax are rising incrementally for tax years 2018 to 2020. For 2018 decedents, the exclusion amount and tax filing threshold were increased from \$2.1 million to \$2.4 million. The exclusion amount is subtracted on Form M706, Line 6a.

The maximum combined qualified small business property and farm property deduction is decreasing each year as the exclusion amount increases. However, the sum of the exclusion and the maximum combined qualified deduction will remain at \$5 million.

### Tax Rates

For 2018 decedents the estate tax rate ranges from 13% to 16%.

### Filing Requirements

If the decedent was a resident of Minnesota at the time of death, the estate is required to file Form M706 if the federal gross estate plus federal adjusted taxable gifts made within three years of the decedent's death exceeds \$2,400,000 on the date of death or if the estate is required to file a federal estate tax return.

If the decedent was a nonresident of Minnesota, the estate is required to file Form M706 if property with situs in Minnesota is included in the federal gross estate and the federal gross estate plus federal adjusted taxable gifts made within three years of the decedent's death exceeds \$2,400,000 on the date of death or if the estate is required to file a federal estate tax return.

The federal gross estate is determined by completing the federal Form 706 (see page 4). The federal adjusted taxable gifts are defined in section 2001(b) of the Internal Revenue Code.

(M.S. 289A.10, subd. 1)

### Who Must File?

If the decedent's estate is being probated, the Probate Court or Probate Registrar will appoint someone as personal representative — also called executor or administrator — of the decedent's estate. That person is then responsible for filing Form M706 for the estate.

In some cases, the Probate Court or Probate Registrar will appoint more than one person as executor. In such cases, all persons who have been appointed as executors are jointly responsible for filing the return.

If the estate is not being probated, all persons who will receive assets included in the decedent's federal gross estate (line 1 of federal Form 706) are responsible for filing the Minnesota return. If more than one person will receive the assets, all persons receiving the assets should choose a mutually agreeable person among them to file the estate tax returns. If one person cannot be agreed on, each person must file a Minnesota return for the decedent's estate. Each person must include on the return not only the assets he or she is receiving, but also all of the decedent's assets being received by other persons and the names of the other persons.

(M.S. 289A.10 and M.S. 291.12)

### Who Must Pay?

The executor is responsible for paying the Minnesota estate tax.

However, if the assets were distributed without reserving enough to pay the various taxes, the executor and beneficiaries are personally responsible for payment to the extent of the value of assets received respectively.

### Deadline for Filing

The regular due date for filing Form M706 is nine months after the date of death.

**Filing extensions.** The automatic extended due date for filing Form M706 is 15 months after the date of death or the amount of time granted by the Internal Revenue Service (IRS) to file the federal estate tax return, whichever is longer.

Any tax not paid by the regular due date is subject to penalties and interest (see *Penalties* on page 2).

*Continued*

# General Information (continued)

## Deadline for Paying

The Minnesota estate tax must be paid no later than nine months after the date of death of the decedent. (*M.S. 289A.20, subd. 3*)

If good cause exists, the department may extend the time for payment for a period of not more than six months. To request a payment extension, submit your request in writing to the department prior to the regular due date. (*M.S. 289A.30, subd. 2*)

It may also be possible to pay the tax in installments if the estate meets the requirements explained in *Paying Tax in Installments* on the next page.

## Paying Tax in Installments

If the Minnesota estate tax is \$5,000 or more and the IRS, under IRC sections 6161 or 6166, has granted the estate an extension of time to pay the federal estate tax, the estate may pay the Minnesota estate tax in installments if the requirements explained below are met.

To be allowed to pay the Minnesota estate tax in installments, the executor must notify the commissioner in writing no later than nine months after the date of death of the decedent. The letter must indicate that the estate will pay the Minnesota estate tax in installments and the dates the payments will be made. The dates must be the same as the dates on which the federal estate tax installments will be made.

The installments — not including interest owed — must be made in equal amounts.

If you are paying the federal estate tax in installments and you wish to pay the Minnesota estate tax in installments, check the box above line 1.

Even if you pay the tax in installments, you must pay interest on any tax that remains unpaid after nine months from the date of death of the decedent. The rate of interest on each installment will be the interest rate in effect during that annual period. (*M.S. 289A.55, subd. 7*)

The amount of interest to include with each installment must be figured separately. Follow the steps below to determine the interest to include with each installment:

- 1 Determine the number of days from the last payment due date (return or installment) to date of payment or Dec. 31, whichever is earlier.
- 2 Divide step 1 by 365, and round the result to five decimal places.
- 3 Multiply step 2 by the interest rate in effect for that year (see *Interest* on page 3).

## Payment Options

*Estate tax can be paid electronically or by check.*

### ■ Pay electronically

- Go to our website at [www.revenue.state.mn.us](http://www.revenue.state.mn.us) and log in to e-Services.
- If you don't have Internet access, call **1-800-570-3329**.

Both options are free and there is no need to register. Enter the decedent's Social Security number and follow the prompts for individuals to make an estate tax payment. You'll need the decedent's last name, date of birth, date of death and your bank routing and account numbers. When paying electronically, you must use an account not associated with any foreign banks.

To be timely, you must complete your transaction and receive a confirmation number on or before the due date for that payment.

### ■ Pay by check

- Go to our website at [www.revenue.state.mn.us](http://www.revenue.state.mn.us) to create and print a payment voucher.
- Write your check to Minnesota Revenue and mail together to the address on the voucher.

Your check authorizes us to make a one-time electronic fund transfer from your account. You may not receive your cancelled check.

Forms are available from our website at [www.revenue.state.mn.us](http://www.revenue.state.mn.us).

- 4 Multiply step 3 by the tax still due.
  - If the due date is in the same year that you're making your payment, stop here. The result in step 4 is the interest you must include with your installment.
  - If your payment was due in one year and you're making the installment in the next calendar year, continue with step 5.
- 5 Determine the number of days from Jan. 1 to date of payment.
- 6 Divide step 5 by 365, and round the result to five decimal places.
- 7 Multiply step 6 by the interest rate in effect for that year (see *Interest* on page 3).
- 8 Multiply step 7 by the tax still due.
- 9 Add step 4 and step 8. This is the interest to include with your installment.

If you fail to make an installment on time, you cannot continue to pay the tax in installments. Instead, you must pay — within 90 days from the date of the missed installment — the full amount of unpaid Minnesota estate tax, a late payment penalty on the unpaid tax, plus interest.

However, if you missed the installment date for what you believe is a reasonable cause, write to the Commissioner of Revenue explaining why the payment was late. You'll be notified in writing whether you may continue to pay Minnesota estate tax in installments. (*M.S. 289A.30, subd. 2*)

## Penalties

**Late payment.** A late payment penalty will be assessed on any tax not paid by the regular payment due date — nine months after the decedent's date of death. The penalty is 6 percent of the unpaid tax.

If you file your Minnesota estate tax return after the regular filing due date — nine months after the decedent's date of death — and you don't pay the tax as reported on your return at the time you file, an additional 5 percent late payment penalty will be assessed on the unpaid tax.

To avoid a late payment penalty, you must pay at least 90 percent of the total Minnesota estate tax by the regular due date and file Form M706 and pay the remaining tax due no later than 15 months after the decedent's death. Make your extension payment electronically or mail your check with a completed payment voucher (see *Payment Options* on page 2). If you made an extension payment, include the amount you paid on line 12 of Form M706. (*M.S. 289A.60, subd. 1*)

**Federal extension for paying tax.** If you received an extension to pay federal estate tax or you have properly elected under IRC section 6166 to pay federal tax in installments, you will not be assessed a late pay-

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# General Information (continued)

ment penalty on any Minnesota estate tax not paid by the regular due date. Attach to your Minnesota M706 return a copy of the federal approval for extending payment of tax. (M.S. 289A.30, subd. 2)

**Late filing.** If you file the return after the extended filing due date, a late filing penalty will be assessed on the unpaid tax. The penalty is 5 percent of the unpaid tax. (M.S. 289A.60, subd. 2)

**Failing to file with intent to evade tax or filing a false or fraudulent return.** A penalty of 50 percent of the tax due is added to the tax if you fail to file or file a false or fraudulent return with intent to evade payment of the Minnesota estate tax. This penalty is in addition to any other penalties that may apply. (M.S. 289A.60, subd. 2)

**Criminal penalties.** If you willfully fail to file a return in order to evade paying the tax, you could be charged with a gross misdemeanor. If you file a fraudulent return in order to evade paying all or part of the tax, you could be charged with a felony. (M.S. 289A.63)

## Abatement of Penalties

If circumstances beyond your control prevented you from filing or paying your taxes on time, you may request an abatement of penalties. To request an abatement, send a letter to the department explaining the specific events or circumstances that prevented you from filing and/or paying on time. Your abatement request must be made within 60 days after the date you were notified that a penalty has been imposed. (M.S. 270C.34)

If the estate needs more time to meet the regular filing due date, the department will abate the penalties for late filing and late payment if the estate meets all of the following requirements:

- Pay a reasonable estimate of the Minnesota estate tax due by the payment due date. (A payment of at least 90 percent of the amount of Minnesota estate tax due as shown on the return is presumed to be a “reasonable estimate.”) Make the extension payment electronically or mail your check with a completed payment voucher (see *Payment Options* on page 2).
- File Form M706 and pay the remaining tax within 15 months of the decedent’s date of death.

## Interest

Interest is calculated as simple interest and accrues on unpaid tax and penalties beginning nine months from the decedent’s date of death. Interest will be charged even if the deadline for filing the return has been extended or the tax is being paid under an installment plan. The rate of interest may change from year to year. (M.S. 270C.40)

The interest rate is 4 percent for 2018 and 5 percent for 2019.

## Use of Information

Information requested for filing estate tax is required under state law (M.S. 289A.10, subd. 2).

All information you enter on the return is private under state law. It cannot be given to others without your consent except to the IRS, other Minnesota state agencies and other state governments that are authorized by law to receive the information and must treat the information as private.

The decedent’s Social Security number is required by M.S. 270C.306. Although your — the executor’s — Social Security number is requested on Form M706, you are not required to provide it. We ask for your Social Security number so the department can correctly identify you, because you are responsible for paying the estate tax if the tax is not paid from the estate’s assets.

## Assembling Required Information

You must attach the following to Form M706 (documents may be double-sided):

- a completed copy of federal Form 706, including all federal schedules (A through U) that list an amount;
- copies of the wills, property appraisals or sales documents, trust agreements, disclaimers, financial documents, etc., that verify balances and/or stock or bond prices;
- a copy of the death certificate;
- a completed copy of the Minnesota Form M706Q if the qualified small business or farm property deduction is being elected; and
- a completed copy of any Federal gift tax returns filed by the decedent covering the three years prior to the decedent’s date of death.

Other items you must attach to the return include:

- an itemized list of the gross values of the decedent’s real and tangible personal property located outside Minnesota (if a resident estate) or in Minnesota (if a nonresident estate). Also, include a list of the schedule and item number where each property is listed in the decedent’s federal return.
- a completed payment voucher, if you’re paying the tax due by check with the Form M706.

**Preferred method.** To attach, be sure to use binder clips, 3-ring binders or 2-prong fasteners. **Do not** use bindings, staples or colored paper as separators.

**Alternative method.** Save all forms, documents and attachments using the PDF format, and store on a CD. Label the CD with the decedent’s name (last, first, middle initial), date of death and Social Security number (last four digits). Submit the CD along with a printed copy of Form M706, the first three pages of federal Form 706, the death certificate and an index page listing the documents.

**Where to file.** Use one of the mailing labels provided on page 7 to mail your Form M706 and all required attachments to the department. If you choose not to use the label, mail your forms to: Minnesota Estate Tax, Mail Station 1315, St. Paul, MN 55146-1315.

## Reporting Federal Changes

If the IRS changes or audits the estate’s federal tax or you amend the federal return, you must file an amended Minnesota estate tax return with the department. The amended Minnesota estate tax return is due no later than 180 days after you are notified of the federal changes or the date you filed the amended federal return.

You must file an amended Minnesota estate tax return even if the changes do not require you to amend the federal return. Complete a new Form M706 with the appropriate amended information, and check the box at the top of the form to indicate that it is an amended return. You must attach to your Form M706, a complete copy of the estate’s amended federal return or the correction notice you received from the IRS.

If you received a closing letter, submit a copy to the department so the estate’s file can be closed.

(M.S. 289A.38, subd. 7)

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# General Information (continued)

If you fail to report the federal changes within 180 days as required, a 10 percent penalty will be assessed on any additional tax. (M.S. 289A.60, subd. 24)

## Refund of Minnesota Tax

If you overpaid tax or the circumstances of the estate have changed since the Minnesota estate tax return was filed and you believe all or a portion of the tax already paid should be refunded, complete a new Form M706 and check the box to show it is an amended return. Be sure to enter on line 14 any tax, penalty and interest you've already paid. On line 19 enter the refund amount. (M.S. 289A.50, subd. 1)

Claims for refund must be filed within 3½ years from the due date for filing the return, plus any extension of time granted for filing the return but only if filed within the extended time. (M.S. 289A.40, subd. 1)

The estate will be paid interest on the amount refunded. (M.S. 289A.56, subd. 3)

## Income Tax Return for Estates

If the estate's assets generate \$600 or more of Minnesota gross income, you must file Form M2, *Income Tax Return for Estates and Trusts*, with the department.

Form M2 corresponds to the federal Form 1041, *United States Income Tax Return for Estates and Trusts*, and is due April 15 or the 15th day of the fourth month following the end of the tax year.

# Line Instructions

## You Must First Complete Federal Form 706

*You will need your federal return to complete Form M706.*

In accordance with changes made during the 2017 Minnesota legislative session, the Minnesota estate tax exclusion and filing requirement will be raised incrementally over the next three years.

If you are not required to file a federal estate tax return, you must obtain and complete a federal Form 706 and instructions to correctly determine your Minnesota estate tax. You must attach a copy of this completed federal return and all supporting schedules when you file your Form M706.

**Qualified Terminable Interest Property (QTIP).** Minnesota recognizes a federal QTIP election only if it was made on a federally filed Form 706. Minnesota allows a Minnesota-only QTIP election for qualifying property. This election is claimed by completing Worksheet A on the M706 form page 3 and inserting a value onto Line 7 of the M706 form page 1. **NOTE: The Minnesota-only QTIP election does not include amounts deducted pursuant to a federal QTIP election.**

**Valuation.** If the estate does not have a federal filing requirement, 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 since there will not be a federal tax using date of death value. Minnesota only allows alternative valuation if it is elected federally.

**Elections.** 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 (IRC section 2032A) and qualified domestic trust election (IRC section 2056A).

A copy of the IRS closing letter must be provided for all estates that claim a federal election before a Minnesota closing letter will be issued.

**Deductions.** Deductions for administrative expenses can only be claimed on the Minnesota estate tax return if the expenses are not claimed as a deduction on any of the estate's federal fiduciary income tax returns. (M.S. 291.03)

## Qualified Small Business and Farm Property Deduction

If the estate is electing to claim the qualified small business and farm property deduction, complete and attach Schedule M706Q, and check the box above line 1. (M.S. 291.005, subd. 1 and 291.03, subd. 1)

## Executor(s)

Enter the name, address and Social Security number of the appointed executor in the designated area on Form M706.

If more than one executor was appointed by the Probate Court or Probate Registrar, you must attach a separate sheet of paper listing all of the other appointed executors' names, addresses and Social Security numbers.

All appointed executors must sign the completed Form M706.

## Lines 1–13

### Line 1

Enter the value from the federal Form 706 line(3)(a).

If the federal taxable estate includes a covered retirement plan (PERA) exempt from state estate tax under M.S. 356.401, exclude the value of the covered retirement plan from the M706 Line 1 and provide an attachment identifying the federal schedule and item number(s) of any qualifying plan(s).

*Continued*

# Line Instructions (continued)

## Line 2b

### Federal Taxable Gifts Made Within Three Years of Death

Enter on this line only those Federal taxable gifts reported on the Federal 706 Line 4 that were made within three years of death.

## Line 3

### Deduction for Death Taxes Paid to a Foreign Country

Any deduction claimed on the Federal schedules J-L for foreign death taxes paid must be entered on this line.

## Line 4

### Minnesota-only QTIP Property Previously Allowed

Enter on this line Minnesota-only QTIP property that had been deducted on a previous spouse's Minnesota estate tax return. QTIP property must be included in the gross estate and taxed on the return of the second spouse to die. Attach an itemized list of the Minnesota-only QTIP property previously allowed. **NOTE: Do not add amounts for property that is already counted in federal gross estate. (M.S. 291.03, subd. 1d)**

Any Minnesota-Only QTIP property having situs in Minnesota should be included in the Step 1 Minnesota Gross Estate within the M706 Worksheet B. The total value of the Minnesota-Only QTIP property included on the M706 Line 4 should be included in the Step 4 Federal Gross Estate within the M706 Worksheet B.

## Line 6b

### Qualified Small Business Property or Qualified Farm Property

From the M706Q, Part 7, line 4, enter the amount the estate is electing to claim for the qualified small business property or qualified farm property deduction. Include a copy of the completed M706Q with the filing of the M706 return. **Note:** This election is irrevocable.

## Line 7

### Minnesota-Only QTIP Property

Complete Worksheet A on the form M706 page 3 and enter the amount for Line 3 of Worksheet A. Refer to the Worksheet A instructions for more details.

## Line 12

### Nonresident Decedent Tax Credit

The credit is for nonresident decedents who reported in the gross estate real or tangible personal property owned by the decedent through a pass-through entity.

### Worksheet A – To Determine Line 7

Minnesota allows a Minnesota-only QTIP election for qualifying property. A trust using a Minnesota-only QTIP election must satisfy all the requirements of section 2056(b) of the Internal Revenue Code, but the election need not have been made at the federal level. To claim a Minnesota-only QTIP election, complete Worksheet A and include a value on Line 7 of the M706 form page 1. The Minnesota-only QTIP should not be claimed for property already deducted for the federal QTIP election. Attach a continuation schedule if more than one property is being included under the election. (M.S. 291.03, subd. 1d)

### 2018 Rate Table - Use to Determine line 10

If line 9 is:		Enter on line 10 of Form M706:			
over	but not over				of the amount over
0	7,100,000	0	+	13.0%	0
7,100,000	8,100,000	923,000	+	13.6%	7,100,000
8,100,000	9,100,000	1,059,000	+	14.4%	8,100,000
9,100,000	10,100,000	1,203,000	+	15.2%	9,100,000
10,100,000	—	1,355,000	+	16.0%	10,100,000

### Worksheet B – To Determine Line 11

#### Step 1 – Minnesota Gross Estate

From the federal estate tax return, add the gross value of each item of the decedent's real and tangible personal property located in Minnesota. If the decedent is a resident of Minnesota, include all intangible personal property.

A nonresident decedent who owns an interest in a pass-through entity that has real or tangible personal property located or normally kept in Minnesota must include that real or tangible personal property on step 1 of Worksheet B. Pass-through entities include S corporations, partnerships, limited liability companies, and trusts. A pass-through entity excludes securities traded on an exchange regulated by the SEC.

#### Step 2 – Gifts of Property with Minnesota Situs

From those federal taxable gifts included on Line 2b on page 1 of the M706, add the gross value of each real or tangible item of personal property located in Minnesota at the time the gift was executed. If the decedent was a resident of Minnesota at the time of the gift, include intangible personal property.

#### Step 7 – Ratio

When dividing step 3 by step 6, round the result to five decimal places and enter on step 7. Multiply the ratio on step 7 by the amount on line 10 of page 1 of Minnesota Form M706. Enter that result on line 11 of page 1 of Form M706.

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# Checklist

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To ensure a complete return, be sure you have enclosed the following with Form M706:

- Federal Form 706 and applicable schedules
- Death Certificate
- Will
- Trust Agreements (include all trust agreements in which the decedent was a grantor and/or beneficiary)
- Third-party supporting documentation (appraisals, financial statement, loan documents, etc.) that verify values reported on the return
- Federal Gift Tax Returns (Federal Form 709)
- Schedule M706Q and all required attachments if the Qualified Small Business Property or Farm Property Deduction is being claimed.

Also, if you have elected a **Power of Attorney**:

- Check the box in the signature section, and
- Complete the Power of Attorney section on Form M706.

**Stop writing checks**

*Pay electronically!*  

It's Secure, Easy, Convenient, Free

[www.revenue.state.mn.us](http://www.revenue.state.mn.us)

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## Use a Mailing Label

Use one of these mailing labels on your own envelope to mail your Form M706 and copies of the estate's federal Form 706, required schedules and death certificate. (Cut on the dotted line and tape the label to your envelope.)

 <b>Minnesota Department of Revenue</b> Mail Station 1315 St. Paul, MN 55146-1315	 <b>Minnesota Department of Revenue</b> Mail Station 1315 St. Paul, MN 55146-1315
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