

**ESTATE TAX  
Portability for Unused Exclusion**

January 22, 2025

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue  
Analysis of S.F. 30 (Nelson)

	<b>Fund Impact</b>			
	<b><u>F.Y. 2026</u></b>	<b><u>F.Y. 2027</u></b>	<b><u>F.Y. 2028</u></b>	<b><u>F.Y. 2029</u></b>
	(000's)			
General Fund	(\$300)	(\$1,600)	(\$2,700)	(\$4,100)

Effective for estates of decedents dying after June 30, 2025.

### EXPLANATION OF THE BILL

**Current Law:** Starting in 2011, the federal estate tax was modified to allow a second decedent spouse's estate to use any unused exclusion amount left over from the first decedent spouse's estate. The policy is known as "portability" of the unused exclusion. Portability is currently not available under Minnesota law.

**Proposed Law:** The bill allows portability for the Minnesota estate tax by creating a new subtraction in computing the Minnesota taxable estate. The subtraction equals the deceased spouse's unused general exclusion amount up to \$3 million.

The deceased spouse's unused general exclusion amount is the excess if any, of \$3 million over the amount of Minnesota taxable estate of the last deceased spouse.

In order for a surviving spouse's estate to claim the deceased spouse's unused exclusion amounts, the subtraction has to reduce the first deceased spouse's estate tax to zero. In no case would the subtraction reduce the Minnesota taxable estate of the decedent to less than zero.

The first deceased spouse's estate is deemed to have elected portability by filing an estate tax return unless the personal representative states affirmatively that the estate is not seeking portability. The election is irrevocable once made. A personal representative may file a return even if it is not required, to allow the decedent's surviving spouse to benefit from the unused exclusion and small business and farm subtraction.

### REVENUE ANALYSIS DETAIL

- The estimate is based on the Minnesota estate tax database, which includes about 11,100 estate returns with years of death between 2014 and 2023, the individual income tax returns filed by the deceased over 2010-2023, and the Actuarial Life table used in 2022 Trustee Report by Social Security Administration (SSA).
- The estate database shows that about 1,419 estate returns with a surviving spouse have some unused exclusion. The total amount of unused exclusion is about \$1.794 billion.

**REVENUE ANALYSIS DETAIL (Cont.)**

- The average effective estate tax rate was estimated at 9.5%. The rate is applied to estimate the tax impact of the unused exclusion.
- The ages of surviving spouses are determined from the last individual income tax return filed under the predeceased. The probability of mortality for the surviving spouse within one year, two, three, four, and five years after the decedent's death is estimated based on the age of the surviving spouses and the actuarial table. The probabilities are used to allocate the tax impact by fiscal year.
- Estate tax returns are assumed to be filed nine months after the decedent's death.

**Number of Taxpayers:** About 158 taxpayers would benefit from the bill each year.

Minnesota Department of Revenue  
Tax Research Division  
[https://www.revenue.state.mn.us/  
revenue-analyses](https://www.revenue.state.mn.us/revenue-analyses)