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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. 1271

February 22, 2007  
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The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act  
1.2 relating to estate taxation; providing for taxation of gifts made within three years  
1.3 of death; amending Minnesota Statutes 2006, sections 291.005, subdivision 1;  
1.4 291.03, subdivision 1.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 291.005, subdivision 1, is amended to read:

1.7 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following  
1.8 terms used in this chapter shall have the following meanings:

1.9 (1) "Federal gross estate" means the gross estate of a decedent as valued and  
1.10 otherwise determined for federal estate tax purposes by federal taxing authorities pursuant  
1.11 to the provisions of the Internal Revenue Code.

1.12 (2) "Minnesota gross estate" means the federal gross estate of a decedent after (a)  
1.13 excluding therefrom any property included therein which has its situs outside Minnesota,  
1.14 and (b) including therein any property omitted from the federal gross estate which is  
1.15 includable therein, has its situs in Minnesota, and was not disclosed to federal taxing  
1.16 authorities.

1.17 (3) "Personal representative" means the executor, administrator or other person  
1.18 appointed by the court to administer and dispose of the property of the decedent. If there  
1.19 is no executor, administrator or other person appointed, qualified, and acting within this  
1.20 state, then any person in actual or constructive possession of any property having a situs in  
1.21 this state which is included in the federal gross estate of the decedent shall be deemed  
1.22 to be a personal representative to the extent of the property and the Minnesota estate tax  
1.23 due with respect to the property.

2.1 (4) "Resident decedent" means an individual whose domicile at the time of death  
2.2 was in Minnesota.

2.3 (5) "Nonresident decedent" means an individual whose domicile at the time of  
2.4 death was not in Minnesota.

2.5 (6) "Situs of property" means, with respect to real property, the state or country in  
2.6 which it is located; with respect to tangible personal property, the state or country in which  
2.7 it was normally kept or located at the time of the decedent's death; and with respect to  
2.8 intangible personal property, the state or country in which the decedent was domiciled  
2.9 at death.

2.10 (7) "Commissioner" means the commissioner of revenue or any person to whom the  
2.11 commissioner has delegated functions under this chapter.

2.12 (8) "Internal Revenue Code" means the United States Internal Revenue Code of  
2.13 1986, as amended through May 18, 2006.

2.14 (9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as  
2.15 defined by section 2011(b)(3) of the Internal Revenue Code, increased by:

2.16 (i) the amount of deduction for state death taxes allowed under section 2058 of the  
2.17 Internal Revenue Code;

2.18 (ii) the amount of expenses which are deducted for federal income tax purposes  
2.19 under section 642(g) of the Internal Revenue Code; and

2.20 (iii) the amount of taxable gifts as defined in section 2503 of the Internal Revenue  
2.21 Code made by the decedent within three years of the decedent's date of death. For  
2.22 purposes of this clause, the amount of the addition equals the value of the gift under  
2.23 section 2512 of the Internal Revenue Code and excludes any value of the gift included in  
2.24 the federal adjusted taxable estate.

2.25 **EFFECTIVE DATE.** This section is effective for decedents dying after December  
2.26 31, 2006.

2.27 Sec. 2. Minnesota Statutes 2006, section 291.03, subdivision 1, is amended to read:

2.28 Subdivision 1. **Tax amount.** The tax imposed shall be an amount equal to the  
2.29 proportion of the maximum credit for state death taxes computed under section 2011 of  
2.30 the Internal Revenue Code, as amended through December 31, 2000, but using Minnesota  
2.31 adjusted taxable estate instead of federal adjusted taxable estate, as the Minnesota gross  
2.32 estate bears to the value of the federal gross estate. The tax determined under this  
2.33 paragraph shall not be greater than the amount computed by applying the rates and  
2.34 brackets under section 2001(c) of the Internal Revenue Code to the Minnesota adjusted  
2.35 gross estate and subtracting the federal credit allowed under section 2010 of the Internal

3.1 Revenue Code of 1986, as amended through December 31, 2000. ~~For the purposes of~~  
3.2 ~~this section, expenses which are deducted for federal income tax purposes under section~~  
3.3 ~~642(g) of the Internal Revenue Code as amended through December 31, 2002, are not~~  
3.4 ~~allowable in computing the tax under this chapter.~~

3.5 **EFFECTIVE DATE.** This section is effective for decedents dying after December  
3.6 31, 2006.