

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 274 **DATE:** March 7, 2011
Version: As amended by author's amendment (H0274A1)
Authors: Davids
Subject: Estate tax - small business and farm exemption
Analyst: Joel Michael, joel.michael@house.mn

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill provides a small business and farm property exemption from the estate tax. The maximum amount of the combined exemptions for these properties is \$4 million. When added to \$1 million exemption under the Minnesota estate tax, the combined value equals the exemption under the federal estate tax of \$5 million. This exemption is effective for estates of decedents dying after December 31, 2010.

- 1 **Minnesota adjusted taxable estate.** Modifies the definition of Minnesota adjusted taxable estate to excluded the value of qualified small business property, as defined in section 4, and qualified farm property, as defined in section 5, are subtracted. The sum of the two amounts cannot exceed \$4 million.
- 2 **Small business and farm property exclusion.** Provides that the value of a qualified small business property, as defined in section 4, and qualified farm property, as defined in section 5, (but not to exceed in combination \$4 million) is excluded from calculation of Minnesota estate tax.
- 3 **Definitions.** Defines terms for purposes of the small business and farm exemptions:
 - **Family member** (defined by reference to federal law) means a spouse, ancestor, lineal descendent, or a spouse of a lineal descendent of the decedent.
 - **Qualified heir** is a family member who acquired the property (farm or small business property) and agreed to continue using the property as a small business or farm or to pay recapture tax under section 6.
 - **Qualified property** refers to the small business property or farm property that meets the requirements of sections 4 or 5.
- 4 **Qualified small business property.** Requires small business property to satisfy the following requirements:
 - Its value was included in the federal adjusted taxable estate.

- It consists of trade or business property (or shares of stock or other ownership interests that are not publicly traded) and the decedent or spouse materially participated in the operation of the business.
- It had gross annual sales for the most recent taxable year of \$10 million or less.
- Any cash or equivalents are deducted from the value of the business.
- Decedent owned the business for three years before the date of death.
- A family member continuously uses the property for three years after the date of death.
- The estate and the qualified heir agree to pay recapture tax if a family member fails to satisfy the requirement to use the property for the three-year period.

5 **Qualified farm property.** Requires qualified farm to satisfy the following requirements:

- Its value was included in the federal adjusted taxable estate.
- The property consists of a farm, as defined by Minnesota law, and was classified as the decedent's agricultural homestead for property tax purposes.
- Decedent continuously owned the property for the three-year period before the date of death.
- A family member continuously uses the property for three years after the date of death.
- The estate and the qualified heir agree to pay recapture tax if a family member fails to satisfy the requirement to use the property for the three-year period.

6 **Recapture tax.** Imposes a recapture tax, if the qualified heir disposes of the property (except by transferring it to a family member) or if a family member fails to satisfy the three-year use requirement. The tax equals 16 percent of the value of the exclusion and is due six months after the property is disposed of or the qualifying use stops.