

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 71 **DATE:** February 1, 2013

Version: The delete everything amendment (H0071DE2)

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Subject: Estate tax – conforming to federal exemption amount

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Overview

This bill, as amended, adopts the federal estate tax exemption rules for Minnesota estate tax purposes and updates Minnesota law to the changes in federal law made since April 14, 2011. This has the effect of:

- Increasing Minnesota's \$1 million exemption to \$5,250,000 (for decedents dying in 2013 and indexed for future inflation after that)
- Adopting the new federal portability rules that allow (if a federal estate tax return is file) unused marital deductions to be passed onto a surviving spouse.

In addition, the bill repeals the special exemptions for qualifying small business and farm property, since the combined amount of these exemptions (\$4 million) is less than the increase in the general exemption resulting from conforming to the federal exemption amount.

Effective date: These changes are effective for decedents dying after December 31, 2012.

Section

- 1 Filing requirement.** Modifies the estate tax filing requirement to reflect the increase in the exemption amount under sections 2 and 3. The requirement to a file a Minnesota return would only apply if a federal estate tax return is required to be filed.
- 2 Estate tax definitions.** Conforms to changes in the federal estate tax adopted by congress during 2012, including the permanent repeal of the credit for state death taxes and eliminates

Section

the exemptions for qualified small business and farm property. Section 4 repeals these exemptions.

- 3** **Estate tax computation.** Provides the estate tax is computed after allowing the amount of the federal exemption. This increases the exemption amount from \$1 million under current law to \$5,250,000 for decedents dying in 2013. The amount of the exemption is indexed for inflation. In addition, this has the effect of adopting the federal rules providing for portability of the exemption when the decedent has a surviving spouse and a federal estate tax return is filed that does not use the entire amount of the exemption. The portability rules allows the surviving spouse to inherit the decedent's unused exemption amount so that it is not "lost" by failing to have enough of the married couple's property in that spouse's name and putting it in a family or credit shelter trust to use the exemption on the first death.

In addition, the section eliminates the subtractions for the exemptions for qualified small business and farm property.

- 4** **Repealer.** Repeals the statutes associated with the exemptions for qualified small business and farm property and the recapture tax that applies if the qualified heirs do not satisfy the three-year qualifying use rule.