HOUSE RESEARCH
Bill Summary

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Subject: Estate and gift taxation

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Overview

This bill imposes a gift tax to complement or back-up the Minnesota estate tax. The tax applies to federal taxable gifts and has a lifetime exemption amount equivalent of $1 million. Gift tax paid is a credit against the Minnesota estate tax for gifts included in the taxable estate. The tax is effective for gifts made after June 30, 2013. The bill's corresponding estate tax provisions are effective for decedents dying after December 31, 2012.

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1 **Estate tax filing requirements.** Modifies the filing requirements for the estate tax to provide that taxable gifts (those in excess of the annual per-recipient, federal exclusion amount) made within three years of decedent's death must be added to the value of the estate to determine if the estate exceeds the $1 million filing requirement.

Effective date: decedents dying after December 31, 2012.

2 **Estate tax definitions.** Updates the estate tax for federal changes enacted through January 3, 2013, and includes the amount of taxable gifts made by the decedent within three years of death in the taxable estate. Under federal law, taxable gifts are defined as gifts of present interests that exceed the annual exclusion amount ($14,000 per recipient) or gifts of future interests of any value.

This section also provides situs rules for gifts: gifts of tangible personal property would be assigned to the place where property is normally kept or located and gifts of intangible

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property (e.g., cash, stocks, or other securities) would be assigned to the domicile of the donor.

Effective date: decedents dying after December 31, 2012.

3 **Conforming change.** Provides that any gift tax paid on a gift included in the taxable estate reduces the estate tax due.

Effective date: decedents dying after December 31, 2012.

4 **Definitions; gift tax.** Defines terms for purposes of the gift tax:

- Terms defined in the estate tax chapter apply to the gift tax.
- Taxable gifts are defined by reference to the federal gift tax. As a result, gifts below the annual exemption amount (for calendar year 2013, $14,000 per recipient, indexed for inflation) are excluded. Generation skipping gifts under federal law would not be treated as taxable gifts. Gifts to charities and spouses would also not be taxable, as under the federal gift tax.

5 **Gift tax imposition.** Imposes a 10 percent tax on taxable gifts. A lifetime credit of $100,000 is allowed (the equivalent of a $1 million exemption). The tax does not apply to transfers of tangible personal property or real property with a situs outside of Minnesota.

6 **Returns.** Requires an individual making a taxable gift during the taxable year to file a gift tax return in the form and manner prescribed by the commissioner. If the donor dies before filing, the personal representative must file the return. The return is to include:

- Each gift;
- The deductions claimed;
- Description of the gift, the donee's name, address, and Social Security number;
- Fair market value of non-cash gifts;
- Any other information the commissioner requires.

7 **Filing requirements.** Requires returns to be filed by April 15th after the close of the calendar year in which the gift was made. If the donor dies, the due date is the time for filing the federal gift tax return.

8 **Appraisal of property.** Authorizes the commissioner to require the donor or donee to show the property subject to tax and to hire suitable persons to appraise the property. The donor is required to provide a statement that the return reflects all of the taxable gifts for the year.

9 **Administrative provisions.** Imposes a payment date of April 15th following the calendar year in which the gift was made. If the donor dies, the time for payment of the federal gift tax applies. A 10-percent penalty (or $100, if greater) applies to late payments. The commissioner can extend the time for filing upon written request, filing of a tentative return, and a showing of good cause. However, tentative tax must be paid with interest (if applicable).

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The taxpayer must notify the commissioner of federal changes in the value of taxable gifts within 180 days of a final determination. If a federal amended gift tax return is filed, the taxpayer must file an amended Minnesota return within 180 days.

Various special federal valuation rules apply, such as those for transfers of interests in closely held corporations and trusts.

10 **Credit against estate tax.** Provides that the amount of gift tax paid is a credit against the Minnesota estate tax to extent that the gift is included in the Minnesota adjusted taxable estate.