HOUSE RESEARCH

Bill Summary

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Overview

This bill makes clarifying changes to the estate tax exclusion for qualifying small business and farm property, enacted by the 2011 Legislature. All of these changes are effective retroactive to the original effective date of the exclusion.

Section

1 **Family member definition.** Clarifies that a trust whose beneficiaries are all family members qualifies as a family member for purposes of the qualified small business property and qualified farm property exclusion.

2 **Qualified small business property definition.** Modifies the qualified small business property definition for purposes of the exclusion to:

- Exclude publicly traded securities and assets not used in the operation of the trade or business from qualifying for the exemption (paralleling the treatment of cash).
- Treat replacement property of sole proprietors as meeting the three-year ownership test prior to decedent's death if it replaced similar property.
- Exclude qualified farm property from qualifying for the exclusion; non-homestead farm property, as well as equipment, can qualify.
- Eliminates the requirement that a family member materially participate in the trade or business of the farm for three years after the decedent's death.
- Clarify that property held in revocable trusts qualify for the exclusion (as property of

Section

the decedent), if they are included in the federal adjusted taxable estate.

3 **Qualified farm property definition.** Modifies the definition of qualified farm property for purposes of the exclusion to:

- Clarify that the property must be agricultural land and owned by a person or entity that is not excluded from owning agricultural land by section 500.24.
- Remove the requirement that for three years after decedent's death a family member must continuously use the property in the operation of the trade or business.
- Require that for three years after decedent's death the property must be classified for property tax purposes as class 2a agricultural property, rather than that family material participate in the trade or business.
- Clarify that property held in revocable trusts qualifies for the exclusion (as property of the decedent), if it is included in the federal adjusted taxable estate.

4 **Recapture tax**. Clarifies that for sole proprietor property, the qualified heir will not be treated as having disposed of an interest in the qualified property if the heir replaces qualified small business property with similar property. For a non-qualifying disposition, it limits the recapture tax to the amount of property disposed of, rather than the entire amount of the exemption claimed.