HOUSE RESEARCH

Bill Summary

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Authors: Backer

Subject: Estate tax—recapture tax

Analyst: Joel Michael, joel.michael@house.mn

This bill modifies the recapture tax that applies to qualified property if the property fails to satisfy the law's use or property tax classification requirement during the 3-year period after the decedent's death.

Under present law, if the heirs do not use qualified small business property in operating their business for the 3-year period or if qualified farm property is reclassified as other than class 2a agricultural property, a 16 percent recapture tax applies to the entire amount of the estate's qualified property. (The 2017 tax act provided that certain uses – e.g., acquisition by a governmental unit for public purposes or limited conversions of farm property to either residential or rural vacant land classification – do not trigger recapture tax.)

This bill makes two changes to the recapture tax:

- It limits calculation of recapture tax to the value of the property that ceases to satisfy the qualified property rules, rather than the entire amount of the estate's qualified property. (The language does not specify if this is the property's value as it was included on the estate tax return or the current value.) This change is effective for estates of decedents dying after December 31, 2018.

- It exempts from recapture tax, reclassification of farm property (up to one-fifth of the total acreage), if the qualified heir has not substantially altered use of the property during the 3-year holding period. The change is retroactive to original effective date of the recapture tax (estates of decedents dying after June 30, 2011).