

Minnesota Legislature Creates New Estate Tax Exemptions

By Kevin Lanigan, Carlson Estate Planning

Under a new law passed during Minnesota's 2011 Special Session. An estate tax exemption is available for Minnesota decedents with estates holding qualified Small Business Property or Qualified Farm Property. Owners of such Minnesota property who die after June 30, 2011 can exclude up to \$4 million of such property from the Minnesota estate tax. When added to the current Minnesota general exemption of \$1 million, it is now possible to exclude up to \$5 million of qualified property from the Minnesota estate tax.

Qualified Small Business Property is business property which: a) the decedent or decedent's spouse materially participated in the year before decedent's death, b) has annual gross sales of less than or equal to \$10 million during the taxable year immediately preceding decedent's death, c) was property the decedent owned continuously for three years immediately prior to the decedent's death, d) is property which will be continuously operated by a family member (ancestors or lineal descendants) for three years following decedent's death. The estate or qualified heir must agree to pay the recapture tax if the family operation of the property does not continue for three years following decedent's death.

Qualified Farm Property is farm property which: a) qualifies under Minnesota statute 500.24 as a family farm by individuals actively engaged in farming, b) is classified as the homestead of the decedent or decedent's spouse under Minnesota statute 273.124, c) is classified as agricultural land and buildings under Section 2a of Minnesota Statute 273.13 (23), d) was continuously owned by decedent for the three year period ending with decedent's death, e) a family member continuously uses in trade or business for three years following decedent's death. The heir must agree to pay any recapture tax, if applicable.