

March 9, 2022

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 3671 (Coleman), As Proposed to be Amended (SCS3671A-1)

	Fund Impact			
	<u>F.Y. 2022</u>	<u>F.Y. 2023</u>	<u>F.Y. 2024</u>	<u>F.Y. 2025</u>
		(000's)		
General Fund Total	\$0	(\$1,100)	(\$3,600)	(\$6,800)

Effective for estates of decedents dying after June 1, 2022.

EXPLANATION OF THE BILL

Current Law: Starting in 2011, the federal estate tax was modified to allow a second decedent spouse’s estate to use any unused exclusion amount left over from the first decedent spouse’s estate. The policy is known as “portability” of the unused exclusion. Portability is currently not available under Minnesota law.

Proposed Law: The bill allows portability for the Minnesota estate tax by creating a new subtraction in computing the Minnesota taxable estate. The new subtraction equals the excess if any, of \$3 million over the amount of Minnesota taxable estate of the last deceased spouse, up to \$3 million.

In order for a surviving spouse’s estate to claim the deceased spouse’s unused exclusion amounts, the subtraction has to reduce the first deceased spouse’s estate tax to zero. In no case would the subtraction reduce the Minnesota taxable estate of the decedent to less than zero.

The first deceased spouse’s estate is deemed to have elected portability by filing an estate tax return unless the personal representative states affirmatively that the estate is not seeking portability. The election is irrevocable once made. A personal representative may file a return even if it is not required, to allow the decedent’s surviving spouse to benefit from the unused exclusion.

REVENUE ANALYSIS DETAIL

- The estimate for the portability of the spousal unused exclusion is based on federal estate tax return information filed in 2020 that contains information about Deceased Spouse Unused Exclusion (DSUE).
- In 2020, out of 3,441 estate returns filed, about 300 returns claimed DSUE. Of which, 100 returns have taxable estate. The average amount of DSUE is \$4.3 million.
- It was estimated that the impact of the DSUE for 2020 was approximately 3.0% of net federal estate tax.
- Taking into account the difference between the federal and state exclusion, it is assumed that the application of portability of the exclusion would reduce Minnesota estate tax collections by 2%.

REVENUE ANALYSIS DETAIL (Cont.)

- The reduction was applied to estate tax collections as projected in the February 2022 forecast.
- It is assumed that the estate tax is paid nine months after the death of the deceased.
- Tax year impacts are allocated for the following fiscal year.

Number of Taxpayers: Unknown.

Minnesota Department of Revenue
Tax Research Division
[https://www.revenue.state.mn.us/
revenue-analyses](https://www.revenue.state.mn.us/revenue-analyses)

sf3671_1 Estate Tax DSUE Portability / tj