



## **S.F. No. 30 – Estate tax portability of deceased spousal unused exclusion**

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Minnesota allows a \$3 million subtraction for purposes of calculating the Minnesota taxable estate, so that up to \$3 million is exempt from tax. In the case of married couples, the exemption amount applies for purposes of calculating the taxable estate of the first-deceased spouse. If the estate is less than \$3 million, the “unused” amount does not transfer to the surviving spouse for purposes of the calculating the surviving spouse’s estate tax liability. This bill allows spouses to elect to transfer, or “port,” the amount of the deceased spouse’s unused exclusion (DSUE) to the surviving spouse for purposes of calculating the surviving spouse’s estate tax liability. The bill also makes technical changes to remove obsolete provisions in the estate tax chapter relating to the exclusion amount, calculating the taxable estate, and calculating estate tax.

**Section 1. Return required.** Strikes obsolete language regarding the estate tax exclusion that fully phased in in 2020 for purposes of the filing requirement for estate tax returns. Effective the day following final enactment.

**Section 2. Election of portability of deceased spousal unused exclusion amounts; election irrevocable; deemed elections.** Allows a personal representative of a decedent’s estate to elect to allow the decedent’s surviving spouse to take the DSUE into account on the required estate tax return. The election is irrevocable, so by filing the return, the personal representative is deemed to have elected portability unless the personal representative affirmatively states that the decedent’s estate is not electing portability. Effective for estates of decedents dying after June 30, 2025.

**Section 3. Election of portability of deceased spousal unused exclusion amounts when estate tax return not required.** Under current law, an estate tax return is required to be filed if the sum of the federal taxable estate and federal adjusted taxable gifts made within three years of the decedent’s death exceeds \$3 million. This section allows a decedent’s personal representative to file a return allowing the decedent’s surviving spouse to take the DSUE into account on the decedent’s return. Effective for estates of decedents dying after June 30, 2025.

**Section 4. Subtraction.** Strikes obsolete language regarding the phased-in estate tax exclusion amount and the qualified small business property and farm property subtraction amount. Allows a surviving spouse an additional subtraction for purposes of calculating the surviving spouse’s taxable estate equal to the lesser of \$3 million or the amount of the deceased spouse’s unused exclusion. Effective for estates of decedents dying after June 30, 2025.

**Section 5. Tax amount.** Strikes obsolete language for calculating the taxable estate during years the years the exclusion amount was phased in and revises the calculation of the taxable estate accordingly. Effective the day following final enactment.



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