



GENERAL FIRM NEWS



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Minnesota Estate Tax Relief for Qualified Small Businesses and Farm Property



By: [Susan L. Anderson, Esq.](#)

Growing up in southern Minnesota, I often visited my relatives and worked summer jobs on their family farms. I wanted to highlight this new legislation for you, whether you own a small family business or farm, to make sure you are aware of any tax advantages you can obtain to preserve your family's legacy.

As background, many of you have heard about the sweeping federal estate tax changes, which Congress passed in December of last year. In summary, Congress increased the amount you may pass at death to \$5 million per person. This amount was made "portable" for a married couple, meaning that a married couple is able to pass \$10 million without federal estate tax. Congress also reunified the estate tax and gift tax exclusions so that you may be able to gift up to \$5 million during your life, rather than waiting to use the \$5 million exemption at death. Finally, Congress reduced the rate at which assets over the \$5 million exemption are taxed to 35%.

Before you think your estate is free of estate taxes, be aware that the Minnesota exemption is still only **\$1 million** per person! Furthermore, our state exemption is not portable for a couple. In other words, without the proper estate plan in place, with the use of trusts, a couple will only have the ability to pass \$1 million free of tax, rather than their full \$2 million. Minnesota's top estate tax rate applied to any amount over \$1 million, is based on a sliding table, combining a percentage rate plus a fixed dollar amount, which can reach up to 25% (for a \$10 million estate). A \$2 million estate, for a couple with no tax planning, will incur a Minnesota tax of approximately \$160,000.

Recently, Minnesota increased the estate exemption, for select qualifying small businesses and farm property, to \$5 million. However, there are many requirements, to qualify and the law will probably evolve as judicial and regulatory rulings refine it. In general, qualifications for a Qualified Small Business are as follows: (1) it must be a closely held business, (2) \$10 million or less in gross annual sales, (3) the decedent (and/or the decedent's spouse) must have been engaged in or materially participating in, the trade or business, (4) the decedent continuously owned the business for the 3 year period ending on the date of death, (5) the business must pass to a qualified heir (a family member), and (6) the heir must materially participate in the operation of the business for three years after the decedent's death.

The requirements for a Qualified Farm are: (1) same requirements as listed in #3 through 6 above, (2) must be classified as the decedent's agricultural homestead, and most importantly, (3) must comply with requirements of Minnesota Statute 500.24 which, similar to S-Corporation rules, defines at length allowable ownership for a Family Farm, Corporation, Partnership or Trust. For instance, an authorized farm corporation must have five or less shareholders, all of whom are natural persons or a family farm trust (other corporate entities do not qualify), there must be only one class of shares, rent revenue must not exceed 20% of the gross receipts, and shareholders holding at least 51% of interest in the corporation must reside on the farm or be actively engaged in working on the farm. So you can see that for many retired farm owners, who have moved off of the farm and rent their land, the increased exclusion will not apply.

For any questions regarding the new small business and farming exemption, or any estate planning, probate and business succession questions, contact Susan L. Anderson at sanderson@hjlawfirm.com or 952-746-2123.

H&J Announcements

H&J Adds New Attorneys ...

Russell "Mick" Spence, Jr. has joined the firm as a partner in the Business & Corporate practice group. He litigates and counsels entertainment, intellectual property and business clients in a wide variety of legal matters. Combining his passions for creativity, commerce, advocacy and success, Mick has established a reputation as the go-to attorney for both creative talents and entrepreneurial businesses. We look forward to his complimentary practice strengthening the business services we provide, while expanding our growth to benefit both existing and new clients.

Joshua R. Ward has also joined the firm as an associate and is a member of the IT & eCommerce and Business & Corporate practice groups. He obtained his JD from William Mitchell College of Law where he served on the Editorial Boards of the *William Mitchell Law Review* and *Cybaris: An Intellectual Property Law Review*.

This newsletter provides general information on legal matters, and should not be relied upon as legal advice. A qualified attorney must analyze the relevant facts and apply the applicable law to provide specific legal advice. If you require legal advice or want additional information regarding the services we offer, please contact David Hellmuth at 952-941-4005 or dhellmuth@hilawfirm.com



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