

A bill for an act

relating to taxation; individual income; directing commissioner to negotiate a reciprocity agreement with state of Wisconsin and permitting its termination only by law; requiring a study; amending Minnesota Statutes 2010, sections 270B.12, by adding a subdivision; 290.081.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 270B.12, is amended by adding a subdivision to read:

Subd. 14. Wisconsin secretary of revenue; income tax reciprocity benchmark study. The commissioner may disclose return information to the secretary of revenue of the state of Wisconsin for the purpose of conducting a joint individual income tax reciprocity study.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2010, section 290.081, is amended to read:

290.081 INCOME OF NONRESIDENTS, RECIPROCITY.

Subdivision 1. Reciprocity with other states. (a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein.

(b) When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of paragraph (a) shall not apply, as they relate to all states except Wisconsin. The provisions of paragraph (a) apply with respect to Wisconsin only for taxable years in which a reciprocity agreement with Wisconsin is in effect as provided by this section. As long as the provisions of paragraph (a) apply between Minnesota and Wisconsin, the provisions of paragraph (a) shall apply to any individual who is domiciled in Wisconsin.

(c) For the purposes of paragraph (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without paragraph (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without paragraph (a), or vice versa, then the state with the net revenue loss resulting from paragraph (a) must be compensated by the other state as provided in the agreement under paragraph (d). This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

(d) Interest is payable on all amounts calculated under paragraph (c) relating to taxable years beginning after December 31, 2000 and before January 1, 2010. Interest accrues from July 1 of the taxable year.

~~(e) The commissioner of revenue is authorized to enter into agreements~~ reciprocity agreement with the state of Wisconsin specifying must specify the compensation required under paragraph (b), the one or more reciprocity payment due date, dates for the revenue loss relating to each taxable year, with one or more estimated payment due dates in the same fiscal year in which the revenue loss occurred, and a final payment in the following fiscal year, conditions constituting delinquency, interest rates, and a method for computing interest due. Interest is payable from July 1 of the taxable year on final payments made in the following fiscal year. Calculation of compensation under the agreement must specify if the revenue loss is determined before or after the allowance of each state's credit for taxes paid to the other state.

~~(e)~~ (f) If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair. Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

3.1 ~~(f)~~ (g) The commissioner may furnish copies of returns, reports, or other information
3.2 to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a
3.3 consultant under joint contract with the states of Minnesota and Wisconsin for the purpose
3.4 of making a determination as to the amount to be paid the other state under the provisions
3.5 of this section. Prior to the release of any information under the provisions of this section,
3.6 the person to whom the information is to be released shall sign an agreement which
3.7 provides that the person will protect the confidentiality of the returns and information
3.8 revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

3.9 (h) Any reciprocity agreement entered into under this section continues in effect
3.10 until terminated by Minnesota or Wisconsin law. The commissioner may agree to modify
3.11 the timing or method of calculating the state payments to be made under the agreement,
3.12 consistent with the requirements of paragraphs (c) and (e), but may not terminate the
3.13 agreement.

3.14 Subd. 2. **New reciprocity agreement with Wisconsin.** (a) The commissioner of
3.15 revenue is directed to initiate negotiations with the secretary of revenue of Wisconsin,
3.16 with the objective of entering into an income tax reciprocity agreement effective for tax
3.17 years beginning after December 31, 2011. The agreement must satisfy the conditions of
3.18 subdivision 1, with one or more estimated payment due dates and a final payment due
3.19 date specified so that the state with a net revenue loss as a result of the agreement receives
3.20 estimated payments from the other state, in the same fiscal year as that in which the net
3.21 revenue loss occurred and a final payment with interest in the following fiscal year.

3.22 (b) The commissioner may not enter into an income tax reciprocity agreement
3.23 with Wisconsin under this section until after Wisconsin has paid in full with interest the
3.24 amount due to Minnesota under the income tax reciprocity agreement in effect for taxable
3.25 years beginning before January 1, 2010.

3.26 **EFFECTIVE DATE.** Subdivision 2 is effective the day following final enactment.
3.27 The changes to subdivision 1 are effective for taxable years beginning after December 31
3.28 of the year of the agreement, contingent upon agreement from the state of Wisconsin to a
3.29 reciprocity arrangement in which estimated payments are made in the same fiscal year in
3.30 which a change in revenue occurs, and a final payment is made in the following fiscal year.

3.31 **Sec. 3. INCOME TAX RECIPROCITY BENCHMARK STUDY.**

3.32 (a) The Department of Revenue, in conjunction with the Wisconsin Department of
3.33 Revenue, must conduct a study to determine at least the following:

3.34 (1) the number of residents of each state who earn income from personal services in
3.35 the other state;

4.1 (2) the total amount of income earned by residents of each state who earn income
4.2 from personal services in the other state; and

4.3 (3) the change in tax revenue in each state if an income tax reciprocity arrangement
4.4 were resumed between the two states under which the taxpayers were required to pay
4.5 income taxes on the income only in their state of residence.

4.6 (b) The study must be conducted as soon as practicable, using information obtained
4.7 from each state's income tax returns for tax year 2011, and from any other source of
4.8 information the departments determine is necessary to complete the study.

4.9 (c) No later than March 1, 2013, the Department of Revenue must submit a report
4.10 containing the results of the study to the governor and to the chairs and ranking minority
4.11 members of the legislative committees having jurisdiction over taxes.

4.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.