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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 44

01/14/2019 Authored by Hertaus
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income; modifying the definition of a resident;
1.3 amending Minnesota Statutes 2018, section 290.01, subdivision 7.

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

1.5 Section 1. Minnesota Statutes 2018, section 290.01, subdivision 7, is amended to read:

1.6 Subd. 7. Resident. (a) ~~The term~~ "Resident" means any individual domiciled in Minnesota,
1.7 except that:

1.8 (1) an individual is not domiciled in this state if before the close of the taxable year the
1.9 individual files an affidavit with the commissioner stating that the individual is domiciled
1.10 in another state or country; or

1.11 (2) an individual is not a "resident" for the period of time that the individual is a "qualified
1.12 individual" as defined in section 911(d)(1) of the Internal Revenue Code, if the qualified
1.13 individual notifies the county within three months of moving out of the country that
1.14 homestead status be revoked for the Minnesota residence of the qualified individual, and
1.15 the property is not classified as a homestead while the individual remains a qualified
1.16 individual.

1.17 An affidavit filed under clause (1) must be made in the form prescribed by the commissioner
1.18 and remains in effect until revoked. A timely filed affidavit is conclusive as to the domicile
1.19 of the individual and is binding on the commissioner and any court considering the matter.

1.20 (b) "Resident" also means any individual domiciled outside the state who maintains a
1.21 place of abode in the state and spends in the aggregate more than one-half of the tax year
1.22 in Minnesota, unless:

2.1 (1) the individual or the spouse of the individual is in the armed forces of the United  
2.2 States; or

2.3 (2) the individual is covered under the reciprocity provisions in section 290.081.

2.4 (c) For purposes of this subdivision, presence within the state for any part of a an  
2.5 individual must be present in this state for substantially all of a calendar day constitutes,  
2.6 including an overnight stay, to constitute a day spent in the state. Presence in Minnesota  
2.7 for the primary purpose of receiving medical treatment by an individual, or the spouse,  
2.8 child, or parent of the individual, is not treated as a day spent in Minnesota. For purposes  
2.9 of this section, "medical treatment" is treatment as defined in section 213(d)(1)(A) of the  
2.10 Internal Revenue Code. Individuals shall keep adequate records to substantiate the days  
2.11 spent outside the state.

2.12 (d) The term "Abode" means a dwelling maintained by an individual, whether or not  
2.13 owned by the individual and whether or not occupied by the individual, and includes a  
2.14 dwelling place owned or leased by the individual's spouse.

2.15 ~~(e)~~ (e) In determining where an individual is domiciled, neither the commissioner nor  
2.16 any court shall consider:

2.17 (1) charitable contributions made by the individual within or without the state;

2.18 (2) the location of the individual's attorney, certified public accountant, or financial  
2.19 adviser; or

2.20 (3) the place of business of a financial institution at which the individual applies for any  
2.21 new type of credit or at which the individual opens or maintains any type of account.

2.22 ~~(d)~~ (f) For purposes of this subdivision, the following terms have the meanings given  
2.23 them:

2.24 (1) "financial adviser" means:

2.25 (i) an individual or business entity engaged in business as a certified financial planner,  
2.26 registered investment adviser, licensed insurance producer or agent, or registered securities  
2.27 broker-dealer representative; or

2.28 (ii) a financial institution providing services related to trust or estate administration,  
2.29 investment management, or financial planning; and

2.30 (2) "financial institution" means a financial institution as defined in section 47.015,  
2.31 subdivision 1; a state or nationally chartered credit union; or a registered broker-dealer  
2.32 under the Securities and Exchange Act of 1934.

- 3.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
- 3.2 31, 2018.