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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2972

03/14/2016 Authored by Quam, Smith and Anderson, M.,
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; clarifying the definition of resident;
1.3 making conforming changes; amending Minnesota Statutes 2014, sections
1.4 290.01, subdivision 7; 290.06, subdivision 22.

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

1.6 Section 1. Minnesota Statutes 2014, section 290.01, subdivision 7, is amended to read:

1.7 Subd. 7. **Resident.** (a) The term "resident" means any individual who:

1.8 (1) is domiciled in Minnesota, ~~except that;~~ or

1.9 (2) spends in the aggregate more than one-half of the taxable year in Minnesota

1.10 during which time the individual both is domiciled outside the state and maintains an

1.11 abode in the state.

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

1.18 ~~(b) "Resident" also means any individual domiciled outside the state who maintains~~
1.19 ~~a place of abode in the state and spends in the aggregate more than one-half of the tax year~~
1.20 ~~in Minnesota, unless (c) Paragraph (a), clause (2), does not apply if:~~

1.21 (1) the individual or the spouse of the individual is in the armed forces of the United
1.22 States; or

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

2.1 For purposes of this subdivision, presence within the state for any part of a calendar
2.2 day constitutes a day spent in the state. Individuals shall keep adequate records to
2.3 substantiate the days spent outside the state.

2.4 The term "abode" means a dwelling maintained by an individual, whether or not
2.5 owned by the individual and whether or not occupied by the individual, and includes a
2.6 dwelling place owned or leased by the individual's spouse.

2.7 ~~(e)~~ (d) Neither the commissioner nor any court shall consider charitable contributions
2.8 made by an individual within or without the state in determining if the individual is
2.9 domiciled in Minnesota.

2.10 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
2.11 December 31, 2015.

2.12 Sec. 2. Minnesota Statutes 2014, section 290.06, subdivision 22, is amended to read:

2.13 Subd. 22. **Credit for taxes paid to another state.** (a) A taxpayer who is liable for
2.14 taxes based on net income to another state, as provided in paragraphs (b) through (f),
2.15 upon income allocated or apportioned to Minnesota, is entitled to a credit for the tax paid
2.16 to another state if the tax is actually paid in the taxable year or a subsequent taxable
2.17 year. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision
2.18 7, paragraph ~~(b)~~ (a), clause (2), and who is subject to income tax as a resident in the
2.19 state of the individual's domicile is not allowed this credit unless the state of domicile
2.20 does not allow a similar credit.

2.21 (b) For an individual, estate, or trust, the credit is determined by multiplying the tax
2.22 payable under this chapter by the ratio derived by dividing the income subject to tax in the
2.23 other state that is also subject to tax in Minnesota while a resident of Minnesota by the
2.24 taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue
2.25 Code, modified by the addition required by section 290.01, subdivision 19a, clause (1),
2.26 and the subtraction allowed by section 290.01, subdivision 19b, clause (1), to the extent
2.27 the income is allocated or assigned to Minnesota under sections 290.081 and 290.17.

2.28 (c) If the taxpayer is an athletic team that apportions all of its income under section
2.29 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this
2.30 chapter by the ratio derived from dividing the total net income subject to tax in the other
2.31 state by the taxpayer's Minnesota taxable income.

2.32 (d) The credit determined under paragraph (b) or (c) shall not exceed the amount of
2.33 tax so paid to the other state on the gross income earned within the other state subject to
2.34 tax under this chapter, nor shall the allowance of the credit reduce the taxes paid under

3.1 this chapter to an amount less than what would be assessed if such income amount was
3.2 excluded from taxable net income.

3.3 (e) In the case of the tax assessed on a lump-sum distribution under section
3.4 290.032, the credit allowed under paragraph (a) is the tax assessed by the other state on
3.5 the lump-sum distribution that is also subject to tax under section 290.032, and shall
3.6 not exceed the tax assessed under section 290.032. To the extent the total lump-sum
3.7 distribution defined in section 290.032, subdivision 1, includes lump-sum distributions
3.8 received in prior years or is all or in part an annuity contract, the reduction to the tax on
3.9 the lump-sum distribution allowed under section 290.032, subdivision 2, includes tax paid
3.10 to another state that is properly apportioned to that distribution.

3.11 (f) If a Minnesota resident reported an item of income to Minnesota and is assessed
3.12 tax in such other state on that same income after the Minnesota statute of limitations
3.13 has expired, the taxpayer shall receive a credit for that year under paragraph (a),
3.14 notwithstanding any statute of limitations to the contrary. The claim for the credit must
3.15 be submitted within one year from the date the taxes were paid to the other state. The
3.16 taxpayer must submit sufficient proof to show entitlement to a credit.

3.17 (g) For the purposes of this subdivision, a resident shareholder of a corporation
3.18 treated as an "S" corporation under section 290.9725, must be considered to have paid
3.19 a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share
3.20 of any net income tax paid by the S corporation to another state. For the purposes of the
3.21 preceding sentence, the term "net income tax" means any tax imposed on or measured by
3.22 a corporation's net income.

3.23 (h) For the purposes of this subdivision, a resident partner of an entity taxed as a
3.24 partnership under the Internal Revenue Code must be considered to have paid a tax imposed
3.25 on the partner in an amount equal to the partner's pro rata share of any net income tax paid
3.26 by the partnership to another state. For purposes of the preceding sentence, the term "net
3.27 income" tax means any tax imposed on or measured by a partnership's net income.

3.28 (i) For the purposes of this subdivision, "another state":

3.29 (1) includes:

3.30 (i) the District of Columbia; and

3.31 (ii) a province or territory of Canada; but

3.32 (2) excludes Puerto Rico and the several territories organized by Congress.

3.33 (j) The limitations on the credit in paragraphs (b), (c), and (d), are imposed on a
3.34 state by state basis.

3.35 (k) For a tax imposed by a province or territory of Canada, the tax for purposes of
3.36 this subdivision is the excess of the tax over the amount of the foreign tax credit allowed

4.1 under section 27 of the Internal Revenue Code. In determining the amount of the foreign
4.2 tax credit allowed, the net income taxes imposed by Canada on the income are deducted
4.3 first. Any remaining amount of the allowable foreign tax credit reduces the provincial or
4.4 territorial tax that qualifies for the credit under this subdivision.

4.5 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.6 December 31, 2015.

4.7 Sec. 3. **RULE CHANGE.**

4.8 The commissioner of revenue shall amend Minnesota Rules, part 8001.0300,
4.9 subparts 8 and 10, so that the provisions therein reflect the changes enacted under sections
4.10 1 and 2. The commissioner shall use the good cause exemption under Minnesota Statutes,
4.11 section 14.388, in adopting the amendments. The provisions of Minnesota Statutes,
4.12 section 14.386, do not apply except as provided in Minnesota Statutes, section 14.388.

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