

**Department of Revenue****Adopted Exempt Permanent Rules Relating to Modernizing Certain Terminology****8001.0300 RESIDENT AND DOMICILE DEFINED; CONSIDERATIONS.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Domicile; definition and presumptions.** The term "domicile" means the bodily presence of an individual person in a place coupled with an intent to make such a place one's home. The domicile of any person is that place in which that person's habitation is fixed, without any present intentions of removal therefrom, and to which, whenever absent, that person intends to return.

A person who leaves home to go into another jurisdiction for temporary purposes only is not considered to have lost that person's domicile. But if a person moves to another jurisdiction with the intention of remaining there permanently or for an indefinite time as a home, that person has lost that person's domicile in this state. The presumption is that a person who leaves this state to accept a job assignment in a foreign nation has not lost that person's domicile in this state.

Except for a person covered by the provisions of the Servicemembers Civil Relief Act, United States Code, title 50 appendix, section 574, the presumption is that the place where a person's family is domiciled is that person's domicile. The domicile of a spouse is the same as the other spouse unless there is affirmative evidence to the contrary or unless the ~~husband and wife~~ spouses are legally separated or the marriage has been dissolved. When a person has made a home at any place with the intention of remaining there and the person's family neither lives there nor intends to do so, then that person has established a domicile separate from that person's family.

The domicile of a single person is that person's usual home. In a case of a minor child who is not emancipated, the domicile of the child's parents is the domicile of the child. The domicile of the parent who has legal custody of the child is the domicile of the child. A

person who is a permanent resident alien in the United States may have a domicile in this state. The domicile of a member of the armed forces will be governed by the facts just prior to becoming a member of the armed forces unless the person takes the necessary steps to establish a new domicile.

The mere intention to acquire a new domicile, without the fact of physical removal, does not change the status of the taxpayer, nor does the fact of physical removal, without the intention to remain, change the person's status. The presumption is that one's domicile is the place where one lives. An individual can have only one domicile at any particular time. A domicile once shown to exist is presumed to continue until the contrary is shown. An absence of intention to abandon a domicile is equivalent to an intention to retain the existing one. No positive rule can be adopted with respect to the evidence necessary to prove an intention to change a domicile but such intention may be proved by acts and declarations, and of the two forms of evidence, acts must be given more weight than declarations. A person who is temporarily employed within this state does not acquire a domicile in this state if during that period the person is domiciled outside of this state.

*[For text of subparts 3 to 10, see Minnesota Rules]*

#### **8038.0100 INCOME TAX RETURNS FOR ~~HUSBAND AND WIFE~~ SPOUSES.**

Subpart 1. [Repealed, 27 SR 1664]

Subp. 2. [Repealed, 27 SR 1664]

Subp. 3. [Repealed, 27 SR 1664]

Subp. 4. **Community property.** If both ~~husband and wife~~ spouses are residents of a community property state or nation, it is permissible for them to split their income and losses based on the law of their residence. Otherwise, it is not permissible for a ~~husband and wife~~ spouses to split their income and losses or to assign it to the other spouse unless it is required under the provisions of the Internal Revenue Code.

Subp. 5. [Repealed, 27 SR 1664]

Subp. 6. **Amended returns, refunds when no longer married.** Where a ~~husband and wife~~ spouses filed a joint return and subsequently are no longer married, an amended return or claim for refund filed by one of the former spouses shall be allowed if the item is attributable to that spouse to the extent of that spouse's tax liability. Where a joint return was filed, the spouse's tax liability shall be determined according to the following formula:

Spouse's recomputed separate tax liability

$$\frac{\text{Both spouse's recomputed separate tax liability}}{\text{Recomputed joint tax liability}} \times \text{Recomputed joint tax liability} = \text{Spouse's share of joint tax liability}$$

The spouse's share of the joint liability is then subtracted from the spouse's contributions through withholding or estimated tax or other credits which were used to pay that joint liability. The amount of the refund to be made to the spouse cannot exceed the amount of the joint overpayment shown on the amended return or claim for refund.

Joint estimated tax payments shall be divided according to the provisions of part 8093.0200. Where credits are not paid out of joint funds, the credit shall belong to the spouse who made the payment on which the credit is based. Where credits are attributable to, earned by, or paid to both spouses jointly, or paid from joint funds of both spouses, they shall be divided equally between the spouses.

When an amended joint return or a claim for refund is filed under this part, no refund will be given to a spouse unless an amended return or claim for refund is filed by that spouse. No additional tax liability may be created and assessed against a spouse unless an amended return is filed by that spouse or an order of assessment is issued by the department.

Subp. 7. [Repealed, 27 SR 1664]

**Subp. 8. Signing of returns.**

A. A joint return must be signed by both ~~the husband and wife~~ spouses unless the return is made by an agent of both ~~the husband and wife~~ spouses, or one spouse signs as the agent of the other. Any spouse who makes a joint return through an agent assumes the responsibility for making the return and incurs liability for the penalty provided for erroneous, false, or fraudulent returns. One spouse cannot sign as the agent of the other unless the return is accompanied by a power of attorney authorizing such action by the spouse not signing the return. Other agents must also submit their power of attorney with the return.

*[For text of item B, see Minnesota Rules]*

Subp. 9. [Repealed, 27 SR 1664]

Subp. 10. [Repealed, 27 SR 1664]

**8093.0200 ESTIMATED TAX PAYMENTS OF ~~HUSBAND AND WIFE~~ SPOUSES.**

Subpart 1. **In general.** ~~A husband and wife~~ Either spouse may make separate estimated tax payments. Making separate payments does not preclude the ~~husband and wife~~ spouses from making a joint tax return for the year.

Subp. 1a. **When husband and wife not living together.** ~~A husband and wife~~ Spouses may make joint estimated tax payments. Joint estimated tax payments may be made even though they are not living together. However, joint estimated tax payments may not be made if they are separated under a decree of divorce or separate maintenance or if they have different tax years.

*[For text of subpart 1b, see Minnesota Rules]*

Subp. 2. **Application to separate returns.** The fact that joint estimated tax payments are made does not preclude a ~~husband and wife~~ either spouse from filing separate returns. If joint estimated payments are made but the ~~husband and wife~~ spouses file separate returns

for that tax year, the joint estimated payments may be treated as payments of either spouse for the taxable year or may be divided between them in such manner as they may agree. In the event the ~~husband and wife~~ spouses fail to agree to a division, the payments must be allocated in accordance with the following rule: the joint estimated payments are allocated to a spouse in the same ratio that the amount of tax shown on the separate return of the spouse bears to the sum of the taxes shown on the separate returns of the spouses.

*[For text of subparts 3 and 4, see Minnesota Rules]*

**8130.6400 ~~DISABLED~~ VETERANS WITH A DISABILITY; PURCHASES OF AUTOMOBILES AND OTHER CONVEYANCES.**

Subpart 1. **General rule.** Minnesota Statutes, section 297A.67, subdivision 11, provides exemption for the gross receipts from the sale of an automobile or other conveyance to a ~~disabled~~ veteran with a disability if the purchaser is assisted by a grant from the United States in accordance with United States Code, title 38, section 3902, as amended.

This exemption is effective for the purchase of vehicles and the purchase of any qualifying adaptive equipment purchased with federal assistance. The exemption shall be applicable for a vehicle as well as adaptive equipment even though the grant was limited to assistance in purchasing only adaptive equipment for such vehicle.

*[For text of subpart 2, see Minnesota Rules]*

Subp. 3. **Sales tax on motor vehicles.** To be exempt from the sales tax on motor vehicles under Minnesota Statutes, chapter 297B, a ~~disabled~~ veteran with a disability purchasing a motor vehicle with adaptive equipment with funds provided by the Veterans Administration under United States Code, title 38, section 3902, should attach to the motor vehicle purchaser's certificate upon registration either a copy of VA form 21-4502 or VA form 10-1394 with all sections of the form completed. The procedure for obtaining exemption for other conveyances that are not subject to the sales tax on motor vehicles and for adaptive equipment remains the same as in subpart 2.

**8130.6600 ~~DISABLED~~ VETERANS WITH A DISABILITY; PURCHASE OF BUILDING MATERIALS.**

Subpart 1. [Repealed, 31 SR 449]

*[For text of subpart 2, see Minnesota Rules]*

**8130.8100 CLAIM FOR REFUND.**

*[For text of subpart 1, see Minnesota Rules]*

Subp. 2. **Requirements for refund claim.** Conditions to be met before the commissioner will entertain a claim for refund:

A. The person filing a claim for refund must have paid the tax and filed the sales and use tax return upon which the claim is based directly to the commissioner (or the tax was collected from such person other than by means of court action in district court, either at law or in equity by the commissioner), except the following:

*[For text of subitem (1), see Minnesota Rules]*

(2) A ~~disabled~~ veteran with a disability who purchases building materials or on whose behalf a contractor, subcontractor, or builder purchases building materials for use in the construction or remodeling of the veteran's residence, when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 801 to 805, as amended, may claim a refund directly from the commissioner. A veterans's claim for refund form is available upon request from the Department of Revenue for use by ~~disabled~~ veterans with a disability in making claims. See part 8130.6400, and Minnesota Statutes, section 297A.25, subdivision 20.

*[For text of subitems (3) to (5), see Minnesota Rules]*

*[For text of items B and C, see Minnesota Rules]*

*[For text of subparts 3 to 5, see Minnesota Rules]*

**8160.0500 INNOCENT SPOUSE RELIEF AND LIABILITY OF DIVORCED, LEGALLY SEPARATED, AND WIDOWED SPOUSES FOR INDIVIDUAL INCOME TAX.**

Subpart 1. **General rule.** For all joint returns, and for combined returns for taxable years 1981 through 1984, the liability of ~~a husband and wife~~ spouses for unpaid individual income taxes is joint and several.

*[For text of subparts 2 to 5, see Minnesota Rules]*