

Residency

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Income Tax Fact Sheet 1

Fact Sheet

This fact sheet will help you determine whether you're a Minnesota resident, and how that affects your Minnesota income tax.

Residency . . .

is generally defined by two rules:

- domicile (permanent residency), or
- the 183-day rule.

Minnesota residents are people who meet the conditions of permanent residency or the 183-day rule (See page 2.).

If you move out of Minnesota temporarily, but don't intend to permanently remain in another state or country, you continue to be a Minnesota resident.

As a resident, you must pay Minnesota tax on taxable income you received from all sources, regardless of where you earned it. Exceptions to this include:

- Individuals deemed non-residents under the Service Members Civil Relief Act
- Individuals eligible for "reciprocity" (See page 3.)

Part-year residents are people who moved during the year into Minnesota with the intention of remaining, or moved out of Minnesota and have established a permanent residence elsewhere. In either situation, you must pay Minnesota tax on taxable income you received from all sources while a Minnesota resident. For the portion of the year you were a nonresident, you may still owe Minnesota income tax if you earned income in Minnesota.

Nonresidents earn income in Minnesota but are permanent residents of another state or country. If you are a nonresident, you must pay Minnesota tax on income you earn in Minnesota. This includes wages, deferred wages, gambling winnings and income or capital gains derived from a business or property, a partnership, S corporation, estate or trust operating in Minnesota.

Nonresidents do not have to pay Minnesota tax on interest, dividends, tax refunds, alimony, pensions or unemployment compensation.

Permanent residency

Your permanent residence (domicile) is the place you intend to make your home for a permanent or indefinite period of time. It is your legal residence. Your permanent residence continues until you take steps to establish a new residence.

If you live with your spouse, we presume you both have the same permanent residence for income tax purposes. If you split your time between more than one state, you both still have the same permanent residence.

Here are examples of common situations and how residency applies.

Example 1. Laura lives in Minnesota for five months and in Arizona for seven months. She was a Minnesota resident before she began spending time in Arizona. Laura continues to be a full-year Minnesota resident until she takes steps to change her residency.

Example 2. William's job requires him to temporarily move to another state for the next two years. He does not intend to stay permanently. William's residency does not change. He is considered a full-year Minnesota resident.

If William moves to another state with the intention of making it his home permanently or for an indefinite time, he no longer is a Minnesota resident.

Example 3. Patrick retired, sold his home in Minnesota, and travels around the country in a recreational vehicle. He has not established domicile in another state. Even though he abandoned his Minnesota home, Patrick is still considered to be a full-year Minnesota resident until he establishes domicile in another state.

Criteria used to determine permanent residency

The criteria below will help you determine your state of permanent residency. No single factor will determine your state of permanent residency. We evaluate all relevant factors together when determining residency.

Property ownership and residence:

- Homestead status
- The location of your home
- The address where mail is received
- Present status of former living quarters (sold, rented, etc.)
- Status of insurance and information provided to the insurance company about a person's residency
- The amount of time you spend in Minnesota

Financial data:

- The location of your bank accounts
- Where you qualify for unemployment insurance
- The state where you filed previous resident tax returns
- the state where you earn your wages

Licenses and registrations:

- Where you are registered to vote
- Which state issued your driver's license
- Where your vehicles are registered
- Where you keep your vehicles
- Where you maintain professional licenses

Affiliations:

- The location of your fraternal, social or athletic memberships
- Where you maintain union memberships
- The location of your place of worship

Higher education:

- Where you qualify for in-state tuition
- Where your children or spouse attend school

Family and dependents:

- Whether you can be claimed as a dependent on another person's federal income tax return and that person's state of residence
- Where your spouse or dependents reside

Your donations to charities are not considered in determining your residency. The department will not ask for this information and you do not have to provide this information.

Changing residency

Changing legal residence requires:

- Physical presence in a new location, and
- Intent to remain there permanently or indefinitely

Actions that express your intent to change your legal residency may include:

- Changing your home of record with your employer
- Changing legal documents, such as a will or insurance policies, to reflect your new legal residence
- Registering to vote in your new location
- Applying for a driver's license in your new state of residence, and relinquishing your old license
- Registering a car in your new state of residence
- Applying for property tax homestead status in your new state of residence
- Selling your home and buying a home in your new state of residence
- Consistently using your new permanent address on records and correspondence

In determining residency, we consider both your words and actions, but your actions carry more weight than words.

The 183-day rule

If you are a resident of another state, you may still be taxed as a Minnesota resident under the 183-day rule.

The 183-day rule depends on two conditions:

1. You spend at least 183 days in Minnesota (Any portion of a day counts as a full day), and
2. You or your spouse own, rent or occupy an abode—a self-contained living unit, suitable for year-round use, that is equipped with its own cooking and bathing facilities—in Minnesota.

If both conditions apply, you are a Minnesota resident for the length of time the second condition applies. If the second condition applied for the entire year, you are considered a full-year Minnesota resident for income tax purposes. If it applied for less than a full year, you are considered a part-year resident.

If you maintain a home in Minnesota, but claim residency elsewhere, you must keep adequate records to verify that you spent more than half of the year out of state. Records commonly include planners, calendars, plane tickets, canceled checks, and credit card and other receipts.

This rule does not apply to military personnel or to people covered under reciprocity (see *Reciprocity* below).

Example: If you rented an apartment in Minnesota for 365 days, but only spent 183 days living in the apartment, you would be a Minnesota resident for the entire year. You would have to pay Minnesota tax on all your taxable income received from all sources, including any income you earned while working in another state.

Special cases

Reciprocity

Reciprocity agreements prevent you from having to pay income tax to two different states. Minnesota has reciprocity agreements with North Dakota and Michigan. That means if you are a Minnesota resident working in North Dakota or Michigan, you pay income tax to Minnesota. Likewise, if you are a resident of North Dakota or Michigan working in Minnesota, you must pay income tax to your home state.

Reciprocity agreements cover only income earned from the performance of personal services; such as wages, salaries, tips, commissions and bonuses. They don't cover capital gains from tangible property, rents, royalties and gambling winnings. That means you would have to file a Minnesota return for those earnings originating in Minnesota even if you are a resident of another state.

For more information, see Fact Sheet 4, *Reciprocity*.

Federal foreign earned income exclusion

If you earned income in a foreign country, you may qualify for the federal foreign earned income exclusion. If you qualify and your foreign earned income is excluded on your federal return, this income will not be taxed by Minnesota.

Note: You must still file a Minnesota return.

To qualify, you must have established a tax home in a foreign country and have been outside the United States for at least 330 days during a 12-month period (see Internal Revenue Service Publication 54, federal Form 2555 or Form 2555EZ).

Continued

Foreign income and residency

Some taxpayers (federal employees, for example), may not qualify for the federal earned income exclusion. Others may have earned income above the federal threshold or have unearned income that doesn't qualify for the federal exclusion.

If you are one of these individuals, you may be able to exclude income on your Minnesota return by qualifying as a nonresident. You are considered a nonresident if you do not homestead property in Minnesota, have established a tax home in a foreign country, and have been outside the United States for at least 330 days during a 12-month period. You will pay Minnesota tax only if you have income derived from Minnesota sources. If you maintain a domicile in Minnesota, you are still considered a Minnesota resident.

For details on what income Minnesota taxes, see Fact Sheet 2, *Part-Year Residents*, or Fact Sheet 3, *Nonresidents*.

Military personnel

Members of the military and their spouses remain permanent residents of the state where they have established permanent residency until they take the necessary steps to change their residency.

If you were a Minnesota resident when you entered the military, we still consider you a Minnesota resident during the time you are stationed outside Minnesota. As a Minnesota resident, you are allowed a subtraction for your military pay.

For more information, see Fact Sheet 5, *Military Personnel*, and Schedule M1M, *Income Additions and Subtractions*.

For active duty military personnel beginning with tax year 2005, if your gross income included on your federal return, minus any compensation received for active duty performed, is less than the Minnesota minimum filing requirement for the year, you don't have to file a Minnesota return. Do not use Active Guard Reserve income for this calculation.

Nonresident military personnel

The 183-day rule does not apply to military members or their spouses. If you are a permanent resident of another state stationed in Minnesota, you cannot be considered a full or part-year resident based on the number of days spent in Minnesota.

Nonresident military spouses may keep their state of residence when moving to be with their military spouse. For more information regarding nonresident personnel and their nonresident spouses, see Fact Sheet 5, *Military Personnel*.

Students

Students remain residents of the states in which they have established permanent residency (even if they attend school full-time in another state), unless they take steps to establish a new residency. If you are a resident of another state attending school in Minnesota, you may be considered a Minnesota resident under the 183-day rule. (The 183-day rule does not apply to students who are residents of a reciprocity state—North Dakota or Michigan.)

If you are a nonresident, you must pay Minnesota tax on any income earned from work performed in Minnesota. For more information, see Fact Sheet 3, *Nonresidents*.

If you are a Minnesota resident who attends school in another state, you remain a Minnesota resident and must pay Minnesota tax on all taxable income from all sources.

Example 1. John is attending a college outside of Minnesota, and he lives in a dormitory on campus. He graduated from high school in Minnesota and when he returns to Minnesota, he stays with his parents. Even though he spends most of his time in another state, he continues to be a Minnesota resident because he has not abandoned his domicile in Minnesota, nor has he established a new domicile somewhere else.

Example 2. Donna is an out-of-state student attending college in Minnesota. She lives in a dormitory on campus for the entire school year, which runs from late August to May. While living in the dormitory, she shares bathing facilities with others on the same floor, and all cooking is done at a central location where all residents of the dormitory eat. When the school year ends, she moves out of the dormitory and lives out of state with her parents. That August, Donna returns to college for another year and again lives in a dormitory on campus.

Donna's domicile remains the same as her parents'. Although she spends most of her time in Minnesota, she has not abandoned her previous domicile. Also, her dormitory room is not a permanent place of abode because it has no cooking and bathing facilities.

Example 3. Frank is an out-of-state student attending college in Minnesota. He lives in an off-campus apartment with three friends. All four roommates share living expenses, including rent and utilities. Since Frank lives in the apartment for more than 183 days of the calendar year and is maintaining a permanent place of abode, he is considered a Minnesota resident, even if his domicile is elsewhere and he intends to leave Minnesota upon graduation.

Residency and taxation

Part-year residents

If you are a part-year resident and your Minnesota gross income meets the Minnesota minimum filing requirement, you must file Form M1 and include Schedule M1NR, *Nonresidents/Part-Year Residents*. Minnesota gross income includes income you received from all sources (including sources not in Minnesota) while you were a Minnesota resident, and any income you earned in Minnesota or from sources in Minnesota while you were a nonresident.

You must pay Minnesota tax on all income recognized while a Minnesota resident. In addition, for the portion of the year you were a nonresident, you must pay tax on income derived from Minnesota sources.

If your home state taxes the same income that is taxed by Minnesota, you may be able to claim a credit on your home state's tax return for taxes paid to Minnesota. If not, you may qualify for a credit on your Minnesota return for income taxes paid to the other state (see Schedule M1CR, *Credit for Income Tax Paid to Another State*). When you file your Form M1, be sure to include a statement from the other state's tax department if you are not eligible to receive a credit on that state's tax return for income tax paid to Minnesota.

Nonresidents

If you are a nonresident and your Minnesota gross income meets the Minnesota minimum filing requirement, you must file Form M1 and include Schedule M1NR, Nonresidents/Part-Year Residents. Minnesota gross income includes income you received from sources in Minnesota.

You must pay Minnesota tax on all income derived from Minnesota sources if your Minnesota gross income exceeds the current year filing requirement.

If your home state taxes the same income that is taxed by Minnesota, you may be able to claim a credit on your home state's tax return for taxes paid to Minnesota. If not, you may qualify for a credit on your Minnesota return for income taxes paid to the other state (see Schedule M1CR, *Credit for Income Tax Paid to Another State*). When you file your Form M1, be sure to include a statement from the other state's tax department if you are not eligible to receive a credit on that state's tax return for income tax paid to Minnesota.

For further information and details on what income is taxed by Minnesota, see Fact Sheet 3, *Nonresidents*.

Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: www.revenue.state.mn.us

You can also contact us at:

Email: individual.incometax@state.mn.us

Phone: 651-296-3781 or 1-800-652-9094 (TTY: Call 711 for Minnesota Relay)

We will provide information in other formats upon request to persons with disabilities.