

HOUSE RESEARCH

Bill Summary

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Authors: Hertaus and others

Subject: Definition of resident for individual income tax purposes

Analyst: Joel Michael, joel.michael@house.mn; Nina Manzi, 651-296-5204

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This bill modifies both of the residency tests under the individual income tax –

- The traditional **domicile test** that is based on where the taxpayer intends to make his or her permanent home and
- The **statutory or physical presence test** that deems an individual to be a resident if he or she maintains a permanent dwelling in Minnesota and is physically present in the state for 183 days or more in the calendar year.

The **domicile test** is modified to provide that an individual is not domiciled in the state if the individual files an affidavit with the commissioner stating that he or she is domiciled in another state or country. The affidavit is conclusive or irrefutable evidence that the individual is not domiciled in Minnesota. The affidavit must be filed before the close of the calendar year to which it first applies and must be made in the form the commissioner prescribes. It remains in effect until revoked.

The **statutory or physical presence test** is modified to provide that days do not count as Minnesota days (for purposes of the 183-day minimum), unless the taxpayer was in the state for substantially all of the day, including an overnight stay. Under present law, any presence in the state qualifies, unless the individual is in transit through the state (e.g., changing planes). The bill also provides that presence in Minnesota for the primary purpose of receiving medical treatment (by the taxpayer, spouse, child or parent) does not qualify as a Minnesota day.

Background. Being treated as a resident subjects the taxpayer's entire income, regardless of type or the location that it is derived from, to Minnesota income tax. (A credit applies to offset tax imposed by another state on that income.) By contrast, a nonresident is subject to tax only on Minnesota-source income (e.g., income from work performed in Minnesota or investment income from tangible property or a business located in Minnesota).