# HOUSE RESEARCH
## Bill Summary

**FILE NUMBER:** H.F. 2972 **DATE:** March 22, 2016
**Version:** As introduced

**Authors:** Quam and others

**Subject:** Individual income tax – residency test

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



## Overview

This bill reverses the Minnesota Supreme Court decision in *Marks v. Commissioner of Revenue* (February 17, 2016) and provides that time spent in Minnesota as a permanent resident (domiciliary) will not be considered in determining whether the statutory residency test, based on physical presence in the state, is met. The primary effect of this change will be to allow more individuals who move into or out of Minnesota to be taxed as part-year residents in the year of their moves, regardless of whether they maintain a Minnesota residence before or after the move. Full year residence status results in Minnesota tax applying to all of the individual's income, including that from intangible investments (e.g., from holding or selling stocks and bonds) and wages and salaries for work outside Minnesota.

**<u>Section</u>**

**1** **Statutory residency test.** Provides that days present in Minnesota as a domiciliary resident may not be counted to determine if the taxpayer spent more than one-half of the taxable year in Minnesota under the statutory residency test.

**Background.** An individual can be a Minnesota resident for income tax purposes under two tests or rules:

- the **domicile tes**t – i.e., the individual intends Minnesota to be their permanent home under the common law domicile test;

**Section**

- the **statutory residency tes**t – i.e., the individual spends more than half of the tax year in Minnesota while also owning or renting a Minnesota residence.

Residents are subject to tax on all of their income, including income from intangibles and earnings for providing personal services outside of Minnesota. By contrast, nonresidents are subject only to tax on their Minnesota-source income. Part-year residents are taxed for the portion of the year they are residents as residents and as nonresidents for the rest of the year.

Under the recent Minnesota Supreme Court decision in *Marks v. Commissioner of Revenue* and under a longstanding Department of Revenue administrative rule (since 1988), days spent in Minnesota by someone who meets the domicile test also count in meeting the physical presence or statutory residency test. This bill reverses that rule and provides those days do not count as “Minnesota days.” The change will affect individuals who change their domicile or permanent residence in a year and who have a Minnesota residence during all or part of the year when they are not domiciled in Minnesota. The bill’s changes will make it easier for those individuals to avoid being residents under the statutory residency test. If they are permanent residents (or domiciliaries) for more than half of a year, it will be impossible for them to be statutory residents for that year.

2 **Conforming change.** Changes a reference in the credit for taxes paid to another state to reflect the relettering of paragraphs in section 1.

3 **Administrative rules.** Directs the commissioner of revenue to amend the department’s administrative rules to reflect the change in the law provided in section 1. The commissioner is to use the good cause exception under section 14.388, which allows for streamlined rule making procedures. The rules would also be exempt from section 14.386, which limits certain rules to a two-year period.