

A bill for an act
relating to individual income taxation; modifying the credit for taxes paid to
another state; modifying the permitted terms of income tax reciprocity with the
state of Wisconsin; appropriating money; amending Minnesota Statutes 2008,
sections 290.06, subdivision 22; 290.081.

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

Section 1. Minnesota Statutes 2008, section 290.06, subdivision 22, is amended to read:

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

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

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

(d) The credit determined under paragraph (b) or (c) shall not exceed the lesser of:

(1) the amount of tax so paid to the other state on the gross income earned within the other state subject to tax under this chapter, ~~nor shall the allowance of the credit reduce, or~~

(2) the reduction in taxes paid under this chapter to an amount less than what that
would be assessed under this chapter if such income amount was excluded from taxable net income.

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

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

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

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

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

(1) includes:

(i) the District of Columbia; and

(ii) a province or territory of Canada; but

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

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

(k) For a tax imposed by a province or territory of Canada, the tax for purposes of this subdivision is the excess of the tax over the amount of the foreign tax credit allowed under section 27 of the Internal Revenue Code. In determining the amount of the foreign tax credit allowed, the net income taxes imposed by Canada on the income are deducted first. Any remaining amount of the allowable foreign tax credit reduces the provincial or territorial tax that qualifies for the credit under this subdivision.

(l) For taxes imposed by the state of Wisconsin on compensation for the performance of personal or professional services, the restriction in paragraph (d), clause (2), does not apply and if as a result the allowed credit exceeds the liability for tax under this chapter, including the tax under section 290.091, the commissioner shall refund the excess of the credit over the tax liability to the taxpayer. An amount necessary to make the refund payments is appropriated from the general fund to the commissioner.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 2. Minnesota Statutes 2008, section 290.081, is amended to read:

290.081 INCOME OF NONRESIDENTS, RECIPROCITY.

(a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein.

(b) When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of paragraph (a) shall not apply. As long as the provisions of paragraph (a) apply between Minnesota and Wisconsin, the provisions of paragraph (a) shall apply to any individual who is domiciled in Wisconsin.

(c) For the purposes of paragraph (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without paragraph (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without paragraph (a), or vice versa, then the state with the net revenue loss resulting from paragraph (a) shall receive from the other state the amount of such loss. ~~This provision~~

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~~shall be effective for all years beginning after December 31, 1972. Payment of the estimated amount of the loss must be made in the same fiscal year in which the taxes are collected, as provided by agreement between the states. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.~~

(d) Interest is payable ~~on all amounts calculated under paragraph (c) relating to taxable years beginning after December 31, 2000. Interest and~~ accrues from July 1 of the taxable year on any refund of an overpayment of an estimated amount and on any final settlement payment. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due.

(e) If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair. Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

(f) The commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 3. APPROPRIATION; RECIPROCITY BENCHMARK STUDY.

\$ is appropriated to the commissioner of revenue from the general fund for fiscal year 2011 to prepare an updated benchmark study for the income tax reciprocity agreement with the state of Wisconsin. This is a onetime appropriation and is not added to the base budget. The appropriation is contingent upon the state of Wisconsin agreeing to the provisions of section 2.