

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 664

01/30/2017 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; individual income; modifying the credit for taxes paid to other
1.3 states; making the credit refundable; amending Minnesota Statutes 2016, section
1.4 290.06, subdivision 22.

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

1.6 Section 1. Minnesota Statutes 2016, section 290.06, subdivision 22, is amended to read:

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

1.14 (b) For an individual, estate, or trust, the credit is determined by multiplying the tax
1.15 payable under this chapter by the ratio derived by dividing the income subject to tax in the
1.16 other state that is also subject to tax in Minnesota while a resident of Minnesota by the
1.17 taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue
1.18 Code, modified by the addition required by section 290.0131, subdivision 2, and the
1.19 subtraction allowed by section 290.0132, subdivision 2, to the extent the income is allocated
1.20 or assigned to Minnesota under sections 290.081 and 290.17.

1.21 (c) If the taxpayer is an athletic team that apportions all of its income under section
1.22 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this

2.1 chapter by the ratio derived from dividing the total net income subject to tax in the other  
2.2 state by the taxpayer's Minnesota taxable income.

2.3 (d)(1) The credit determined under paragraph (b) or (c) shall not exceed the amount of  
2.4 tax so paid to the other state on the gross income earned within the other state subject to  
2.5 tax under this chapter, ~~nor shall~~;

2.6 (2) the allowance of the credit does not reduce the taxes paid under this chapter to an  
2.7 amount less than what would be assessed if ~~such income amount was~~ the gross income  
2.8 earned within the other state were excluded from taxable net income.

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

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

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

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

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

3.1 (1) includes:

3.2 (i) the District of Columbia; and

3.3 (ii) a province or territory of Canada; but

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

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

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

3.13 (l) If the amount of the credit that a qualifying individual is eligible to receive under this  
3.14 section for taxes paid to a qualifying state, disregarding the limitation in paragraph (d),  
3.15 clause (2), exceeds the taxes due under this chapter, the commissioner shall refund the  
3.16 excess to the individual. An amount sufficient to pay the refunds required by this section  
3.17 is appropriated to the commissioner from the general fund.

3.18 For purposes of this paragraph, "qualifying individual" means a Minnesota resident as  
3.19 defined in section 290.01, subdivision 7, paragraph (a), who received compensation during  
3.20 the taxable year for the performance of personal or professional services within a qualifying  
3.21 state, and "qualifying state" means a state with which an agreement under section 290.081  
3.22 is not in effect for the taxable year but was in effect for a taxable year beginning before  
3.23 January 1, 2010.

3.24 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December  
3.25 31, 2016.