RESIDENCY AND MINNESOTA INDIVIDUAL INCOME TAX

Many Minnesota residents choose to move their primary residence to another state but maintain a residence and other connections within Minnesota's borders. These connections can lead to unexpected state income tax consequences. Minnesota recognizes three residency statuses: permanent resident, part-year resident and nonresident. Residents are taxed on income from all sources. Nonresidents pay Minnesota tax on Minnesota source income above a threshold, currently $9,750. Part-year residents, those who have moved into or out of the state, pay income tax on income from all sources while a Minnesota resident.

Minnesota Rule 8001.0300 defines a "resident" as anyone who is domiciled in Minnesota or who maintains a dwelling in the state and spends at least 183 days per year in Minnesota. Domicile is determined by two factors: your physical presence in the state and an intention to remain there permanently or indefinitely. Many people are caught off guard by how difficult it can be to establish a new residence, since the state requires more than a change of address. Former Minnesotans who consider "home" to be another state but who maintain property in Minnesota need to be aware of domicile law to avoid paying Minnesota income tax on all sources of income.

Mulligan | Bjornnes PLLP
Attorneys at Law
401 Groveland Ave | Minneapolis | MN | 55403 | Phone: (612) 871-1800 | Fax: (612) 871-7869

Common Questions

Am I a Minnesota resident?

Those who own a dwelling in Minnesota and have spent at least half of the year in the state are Minnesota residents for income tax purposes. Several Minnesota Supreme Court cases have considered issues surrounding residency status. Oftentimes, there is a fine line between who is considered a resident and who is not when property is owned in multiple states and travel to Minnesota is frequent.

To constitute a dwelling in Minnesota, the property must be suitable for year-round use and have functional plumbing. Homes that are unoccupied, for rent or for sale may still be considered dwellings. *Mauer v. Commissioner of Revenue*, a 2013 Minnesota case, illustrated the difficulty of disputing residency while maintaining a furnished home in Minnesota. Even though the home was for sale, Mauer kept insured personal property at the residence. This factor, combined with the time he spent in the state, led the court to conclude Mauer was still domiciled in Minnesota.

Family connections and business relationships often draw former Minnesotans back to the state for extended visits. Currently, Minnesota requires individuals to be physically present in the state for 183 days or more per year to be considered a resident. This may seem straightforward, but the state counts partial days spent in Minnesota as full days which is important for people who frequently travel to the state. Adelyn Luther, a businesswoman and former Minnesota resident, was caught in the "travel trap" and declared a resident due to 18 days spent partially in Minnesota. The entire case is detailed in *Luther v. Commissioner of Revenue* (1999). One exception to partial days spent in Minnesota is the transit rule. Passing through Minnesota when traveling to and from different locations will not count as days spent in the state as long as the person is not present in the state for more than 24 hours.

How does Minnesota's individual income tax compare to other states?

Besides the warm weather and leisurely lifestyle, states such as Florida, Nevada and Texas offer a huge advantage over Minnesota—no individual income tax. Minnesota taxes individual income between 5.35% and 9.85%. A new tax bracket for high-income earners was established in 2013, changing the highest tax rate from 7.85% to 9.85%. Individuals who earn at least $150,001 per year and who file singly will experience a 25% hike in their income tax.

Increasing Minnesota individual income tax rates makes zero– or low–income states more attractive. According to the Minnesota Department of Revenue, Minnesota had the eighth-highest individual income tax rate per capita in 2010. The state may rank even higher after the implementation of the new tax bracket. Seven states have no income tax: Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming. Additionally, Tennessee and New Hampshire only tax dividends and interest income. Careful planning and knowledge of Minnesota domicile law allows former Minnesotans to benefit from living primarily in a zero-income tax state while maintaining a residence in Minnesota.

2010 State Rankings for Income Tax (Per Capita, Highest to Lowest)

1.	New York	$2,190.92
2.	District of Columbia	$1,830.25
3.	Maryland	$1,728.84
4.	Connecticut	$1,613.44
5.	Massachusetts	$1,544.98
6.	Oregon	$1,288.70
7.	California	$1,222.51
8.	**Minnesota**	**$1,216.07**
9.	New Jersey	$1,173.12
10.	Hawaii	$1,120.61
11.	Virginia	$1,079.20
12.	Pennsylvania	$1,051.33
13.	Ohio	$1,043.15
14.	Wisconsin	$1,017.63
15.	Delaware	$1,008.29
16.	Maine	$981.91
17.	Kentucky	$963.77
18.	North Carolina	$955.38
19.	Kansas	$941.26
20.	Iowa	$900.45
21.	Rhode Island	$864.28
22.	Indiana	$835.97
23.	Nebraska	$827.71
24.	West Virginia	$820.71
25.	Colorado	$810.26
26.	Vermont	$781.43
27.	Missouri	$769.51
28.	Utah	$758.30
29.	Georgia	$722.44
30.	Montana	$721.34
31.	Arkansas	$715.73
32.	Idaho	$680.26
33.	Illinois	$662.67
34.	Michigan	$594.37
35.	Oklahoma	$591.67
36.	South Carolina	$576.44
37.	Alabama	$563.61
38.	Louisiana	$503.04
39.	New Mexico	$463.04
40.	Mississippi	$455.37
41.	North Dakota	$450.27
42.	Arizona	$376.78
43.	New Hampshire	$62.55
44.	Tennessee	$27.13
45.	Alaska	—
46.	Florida	—
47.	Nevada	—
48.	South Dakota	—
49.	Texas	—
50.	Washington	—
51.	Wyoming	—

How do I prove I am no longer domiciled in Minnesota?

There are many steps to take beyond unpacking the moving boxes to establish domicile in a new state. Minnesota Rule 8001.0300 provides a list of 26 factors to be considered in determining a person's domicile. Some factors may not apply to each individual's unique situation, but all of the factors are useful in proving a person's intent to remain in one location. If you are a former Minnesota resident and have moved your primary residence out of state, there are many ways to prove you are domiciled in a different state. Generally, these actions fall into three categories: cutting ties, creating ties and documentation.

- **Cut ties** with Minnesota. Cancel your Minnesota driver's license, club memberships and Minnesota bank accounts (if possible.) Move your personal possessions to your new home. This includes collectibles, photo albums, clothing and vehicles. Alert all organizations to your change of address, and forward all mail to your new primary residence. It is also important to file a Notification of Move Form with the county assessor to remove the homestead status on any Minnesota dwelling.

- **Create ties** in your new state. Register to vote, obtain a new driver's license and register your motor vehicles. Homestead your dwelling. Build a network of stable, indefinite associations with local businesses and personal relationships. If you are religiously affiliated, become a member at a local place of worship. Open bank accounts and make frequent transactions in the new state.

- **Document** your travels. Keep thorough records of all trips to and from Minnesota including airline tickets, receipts, etc. The purpose of documentation is to keep a record of how many days are spent in Minnesota and also to prove that your new state is "home base." Credit card statements and even phone records can be helpful in establishing your whereabouts at any given time.

View the 26 factors under Subpart 3 of Minnesota Rule 8001.0300

https://www.revisor.leg.state.mn.us/rules/?id=8001.0300

We would be happy to consult with you regarding any questions or concerns you have related to income tax, residency status or other legal matters. Please contact our office at (612) 871-1800 to speak with an attorney.