

2017 INDIVIDUAL INCOME TAX LEGISLATIVE BULLETIN



Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

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Unless otherwise noted, the provisions discussed in this bulletin can be found in 2017 Minn. Laws, 1st Spec. Sess. ch. 1.

Telefiling of income tax returns. Minn. Stat. § 289A.08, subd. 11, was amended to remove references to telefiling of individual income tax returns. Filing state or federal returns by telephone has not been offered since 2005. Effective May 31, 2017.

Withholding statement. Minn. Stat. § 289A.09, subd. 2, was amended to change the date when employers must submit a Form W-2 from February 28 to January 31. Effective for wages paid after December 31, 2016. Also amended to remove the obsolete requirement that employers submit an annual reconciliation of their quarterly withholding returns. Effective for reconciliations required to be filed after December 31, 2016. And amended to allow the commissioner to determine the content, format, and manner in which W-2's must be submitted. Effective for W-2 statements required to be sent to the commissioner after December 31, 2017.

Reporting of exempt interest and dividends. Minn. Stat. § 289A.12, subd. 14, was amended to require any person receiving \$10 or more of exempt non-Minnesota municipal bond interest or dividends and paying those amounts as nominee to an individual who is a resident of Minnesota, to report the amount paid to the recipient by February 15 of the year following the year of payment and by June 1 of the year following the year of payment to the commissioner. Effective for reports required to be filed after December 31, 2017.

Reportable transactions of tax shelters. Minn. Stat. § 289A.121, subd. 5, was amended to remove references and duties for reporting that were due more than 60 days from July 14, 2005. Also removes paragraph (d), which provides that no disclosure was required under certain circumstances if it was between December 31, 2001, and before January 1, 2006. Effective August 1, 2017. 2017 Minn. Laws ch. 40, art. 1, § 98.

Lists of investors of tax shelters. Minn. Stat. § 289A.121, subd. 6, was amended to remove subparagraph (b)(3), which states a date of October 15, 2005. Because the requirement in statute was the latest of 60 days after the transaction or when the transaction became a listed transaction, they would necessarily be after October 15, 2005 for current taxable periods. Effective August 1, 2017. 2017 Minn. Laws ch. 40, art 1, § 99.

Annual withholding returns. Minn. Stat. §§ 289A.18 and 289A.20, subd. 2, were amended to make the threshold to file an annual withholding return \$500, eliminate the annual indexing of the threshold, give the commissioner the authority to notify newly eligible employers that they have the option of filing an annual return, and change the date when employers must file an annual return from February 28 to January 31. Effective for taxable years beginning after December 31, 2016.

Minn. Rules, pt. 8092.1400 Annual Returns for Withholding Taxes was repealed as obsolete because it is no longer necessary given the amendment to Minn. Stat. §§ 289A.18 and 289A.20. Effective for taxable years beginning after December 31, 2016, except that notifications from the Department of Revenue to employers regarding eligibility to file an annual return for taxes withheld in calendar year 2017 remain in force.

Automatic extensions for fiduciary income tax return. Minn. Stat. § 289A.19, subd. 7, was amended to provide that the fiduciary income tax filers receive an automatic and equivalent extension of the return filing deadline when a federal extension is granted. The extension does not affect the due date for payment. Effective May 31, 2017.

Assessments for pass-through companies. Minn. Stat. § 289A.35 was amended to allow S corporation shareholders and partners to request that orders of assessment be issued to and paid by the entity after the initiation of the audit. The commissioner has the authority to determine when such requests shall be allowed. Decisions by the commissioner on this issue are not appealable. Minn. Stat. §§ 290.31 and 289A.31 were amended to allow partnerships to be liable for the individual income taxes due from partners. Effective May 31, 2017.

Residency determination. Minn. Stat. § 290.01, subd. 7, was amended to modify both what can be considered in determining if a taxpayer is domiciled in Minnesota and the statutory residency test under Minn. Stat. § 290.01, subd. 7(a). Specifically, language was added that the Department or a court, when determining where an individual intends his or her permanent home to be, cannot consider the location of the individual's attorney, certified public accountant, or financial adviser; and the place of business of a financial institution where the individual opened or maintains an account. Effective for taxable years beginning after December 31, 2016.

First Time Homebuyer Savings Account. A new subtraction was created to allow taxpayers to subtract from adjusted gross income any amounts that are earned in interest or dividends from a new First Time Homebuyer Savings Account. The changes amend § 290.0131 to create new subdivision 14, which creates an addition pursuant to new Minn. Stat. § 462D.06, subd. 2. Amends Minn. Stat. § 290.0132 to add subdivision 25 to allow for a subtraction pursuant to new Minn. Stat. § 462D.06, subd. 1. Amends Minn. Stat. § 290.06 to create new subdivision 2g to allow for additional tax to be assessed according to new Minn. Stat. § 462D.06, subd. 3. Creates Minn. Stat. § 462D.01, which is the citation for the new chapter. Creates Minn. Stat. § 462D.02, which defines terms for the new subtraction. Creates Minn. Stat. § 462D.03, which outlines the requirements for the establishment of a first time homebuyer account. Creates Minn. Stat. § 462D.04, which outlines the duties of an account holder for the account. Creates Minn. Stat. § 462.05, which describes all the things financial institutions do not have to do to ensure compliance with the chapter. Creates Minn. Stat. § 462D.06, which provides the calculations for the addition, the subtraction, and the additional tax. The subtractions and the additional tax sections are effective for taxable years beginning after December 31, 2016. The account creation provision, financial institution section, and definitional sections are effective May 31, 2017.

Subtraction for military retirement pay. Minn. Stat. § 290.0132, subd. 21, was amended to clarify that a taxpayer is prohibited from claiming both the credit for military service under

Minn. Stat. § 290.0677 and the subtraction. Effective retroactively for tax years beginning after December 31, 2015.

Contributions to a 529 Plan. Amends Minn. Stat. § 290.0132 to create subdivision 23, which allows for a subtraction for contributions to a 529 plan. Also amends Minn. Stat. § 290.06 to create new subdivision 2h, which defines terms and calculations for subtraction and credit recaptures. Minn. Stat. § 290.0684 was created to define terms and calculations for the credit for contributions to a 529 plan. Effective for taxable years beginning after December 31, 2016.

Discharge of indebtedness, student loans; subtraction for individuals. A new subtraction was created and codified as Minn. Stat. § 290.0132, subd. 24, for student loan indebtedness discharged by the lender following the borrower's completion of an income-driven repayment plan that sets monthly payments based on the borrower's income and family size. Minn. Stat. § 290.091, subd. 2(a)(6)(4), was amended to also allow the subtraction in the calculation of the Alternative Minimum Tax (AMT). Effective for taxable years beginning after December 31, 2016.

Social Security income subtraction for individuals. A new subtraction was created and codified as Minn. Stat. § 290.0132, subd. 26 for an amount of Social Security benefits, up to a maximum amount. The maximum subtraction is \$4,500 for married couples filing joint returns; \$3,500 for single and head of household filers; and \$2,250 for married couples filing separate returns. The subtraction is reduced by 20 percent of provisional income over a threshold. The threshold is \$77,000 for married couples filing joint returns; \$60,200 for single and head of household filers; and \$38,500 for married couples filing separate returns. Adjusts the maximum amounts and thresholds annually for inflation. Minn. Stat. § 290.091, subd. 2(a)(6)(4), was amended to also allow the subtraction in the calculation of the Alternative Minimum Tax (AMT). Effective for taxable years beginning after December 31, 2016.

Accelerated recognition of certain installment sale gains. Newly enacted Minn. Stat. § 290.0137 requires nonresidents and persons who become nonresidents to recognize future year gains following the sale of the assets of, or an interest in, a pass through entity when they use the installment sale method of reporting for federal tax purposes. The provision also allows taxpayers to elect out of early recognition by agreeing to continue filing Minnesota tax returns and recognizing the full allocable amount of future year installment sale gains in the year that they are recognized federally. The provision also provides that taxpayers who do not elect out of early recognition will not be taxed twice on the gains recognized early if they continue to file Minnesota income tax returns in future years. Effective for taxable years beginning after December 31, 2016.

Credit for taxes paid to another state. Minn. Stat. § 290.06, subd. 22, was amended to provide a credit for taxes paid to Wisconsin. Modifies the credit for taxes paid to other states for individuals who have personal or professional income taxed by Wisconsin, so that the current law limit that restricts the credit to the amount of Minnesota tax that would be paid on the income do not apply. Apportions the credit based on the share of income taxed by Wisconsin that represents compensation for personal and professional services, and makes the resulting amount refundable. The credit would only apply in years in which Minnesota did not have an income tax

reciprocity agreement with Wisconsin and essentially provides the same tax treatment to Minnesota residents who work in Wisconsin that they would receive under a reciprocity agreement. Minnesota terminated the reciprocity agreement with Wisconsin after tax year 2009. Effective for taxable years beginning after December 31, 2016.

Greater Minnesota Internship credit repealer. Minn. Stat. §§ 290.06, subd. 36, and 136A.129 were repealed to eliminate the credit. Effective for taxable years beginning after December 31, 2017.

Beginning Farmer Incentive Credit and Beginning Farmer Management Credit. Two new credits were created and are codified in sections Minn. Stat. § 290.06, subd. 37 and subd. 38. The credits may be claimed only after approval and certification by the Rural Finance Authority under new section 41B.0391. Beginning Farmer Management credit is a tax credit for owners of agricultural assets. The assets may be land, livestock, facilities, or machinery located in Minnesota, that are sold or rented to a beginning farmer who is not a family member of the asset owner. The credit equals 5% of the sale price of the asset, 10% of the gross rental income in each of the first three years of a rental agreement, or 15% of the cash equivalent of the gross rental income of the first three years of a share-rent agreement. If the amount of the credit exceeds tax liability, the excess may be carried forward 15 years. The Beginning Farmer Management credit is equal to 100% of the cost of participating in a financial management program approved by the Minnesota Rural Finance Authority. The credit can be taken for three years. If the amount of the credit exceeds tax liability, the excess may be carried forward three years. Effective for taxable years beginning after December 31, 2017.

Dependent care credit. Minn. Stat. § 290.067, subd. 1 and 2b, were amended to make the state credit match the federal credit. The income measure for phase-out was changed to be “adjusted gross income” instead of “household income.” The indexing base was reset and there is a new \$50,000 income threshold for phaseout, which is adjusted annually for inflation beginning in 2018. Minn. Stat. § 290.067, subd. 2, was repealed as part of the changes to the phaseout. Effective for taxable years beginning after December 31, 2016.

Working family credit. Minn. Stat. § 290.0671, subd. 1, was amended to extend the credit to individuals without children that are between the age of 21 to 65, and to on-reservation earnings of enrolled tribal members who live and work on their tribe’s reservation. The enrolled tribal members provision is effective for taxable years beginning after December 31, 2016. The extended eligibility to persons 21 to 65, is effective for taxable years beginning after December 31, 2018.

Long term medical care insurance premiums credit. Minn. Stat. § 290.0672, subd. 1, was amended to remove the specific reference to a “7.5% income test” for claiming medical deductions as a federal itemized deduction. Internal Revenue Code § 213 was amended in 2013 so that medical deductions are now subject to a 10% of adjusted gross income test, except that it remains at 7.5% of adjusted gross income through 2016 for taxpayers age 65 or older. Effective retroactively for taxable years beginning after December 31, 2012.

K-12 Education expense credit. Minn. Stat. § 290.0674, subd. 2, was amended to delete cross reference to dependent care credit definition of income. Effective for taxable years beginning after December 31, 2016. New subdivision 2a was added to define “income” but without changing the applicable definition of income. Effective August 1, 2017.

Student loan credit. A new nonrefundable credit was created and codified in Minn. Stat. § 290.0682 for payments of principal and interest up to a maximum of \$500 on “qualified education loans” used to pay for the costs of attending an undergraduate or graduate degree program at an educational institution eligible for federal financial aid. If both the taxpayer and the taxpayer’s spouse have qualified loans, each may claim the credit. Effective for taxable years beginning after December 31, 2016.

Credit for attaining master’s degree in teacher’s licensure field. Minn. Stat. § 290.0686 was added to create a new refundable individual income tax credit of \$2,500 for licensed K-12 teachers who complete a master’s degree program in their field of licensure. Requires elementary school teachers to complete a master’s degree in a core content area in which the teacher provides direct classroom instruction. Limited to teachers who begin a program after June 30, 2017, and teachers would claim the credit in the year they complete the degree. Effective for taxable years beginning after December 31, 2016.

Small Business Investment Credit. 2010 Minn. Laws ch. 216, § 12, effective date for Minn. Stat. § 290.0692 was amended to sunset the credit at the same time as the Angel Investment Credit in section 116J.8737. Also retroactively revived and reenacted the section. Effective retroactive from January 1, 2015.

Income tax reciprocity agreement; benchmark study; Wisconsin. Amends Minn. Stat. § 290.081 to authorize the commissioner of revenue to enter into an income tax reciprocity agreement with the Wisconsin secretary of revenue. Requires that the state with a net revenue loss must receive the amount of that loss by the other state on a quarterly basis. For agreements entered into before August 1, 2018, the amount received by Minnesota must equal net revenue loss minus up to \$3,000,000. Requires that an agreement with Wisconsin must:

- suspend the agreement in case of late payment;
- specify the interest rate applied to payment;
- provide for annual reconciliation of payments;
- require each state to conduct a benchmark study every five years;
- require the two states to annually exchange a list of taxpayers who request exemption from withholding; and
- require that the sum of the quarterly payments reasonably estimate the revenue loss.

Effective for taxable years beginning after December 31, 2017.

An uncodified session law requires the Department of Revenue, in conjunction with the Wisconsin Department of Revenue, to conduct a study to determine the number of residents from each state who earn income from personal services in the other state; and the total amount of income earned by these residents; and the change in tax revenue in each state if a reciprocity

agreement were resumed. The Department of Revenue must submit a report to the House and Senate tax committees by March 1, 2019. The study may only be conducted if the Wisconsin Department of Revenue fully participates. Appropriates \$300,000 one-time in fiscal year 2018 for the study. Effective May 31, 2017. The appropriation is only effective if the conditions of subdivision 1 para(d) of the session law are satisfied.

Definitions. Minn. Stat. § 290.091, subd. 2, was amended to change the style for the subparagraph, so the subparagraph follows the Reviser’s style guidelines. Effective August 1, 2017. 2017 Minn. Laws ch. 40.

Retirement plan contribution. Minn. Stat. § 290A.03, subd. 3(d), was amended to correct a statutory reference to the Internal Revenue Code. Effective May 31, 2017.

Definition of property tax refund claimant. Minn. Stat. § 290A.03, subd. 8, was amended to delete references to the “general assistance medical care program” from the list of taxpayers not eligible to claim a Minnesota property tax refund. The “general assistance medical care program,” once found in Minn. Stat. 256D.03, was repealed in 2010 by the legislature, and therefore this exclusion is no longer applicable. Effective August 1, 2017. 2017 Minn. Laws ch. 40.

Homestead credit refund; home offices. Minn. Stat. § 290A.03, subd. 13, was amended to require homeowners who claim a simplified home office deduction under section 280A of the Internal Revenue Code to reduce their homestead taxes used to claim the homestead credit refund by the taxes apportioned to the home office. Effective for refunds based on rent paid after December 31, 2015 and taxes payable after 2016.

Property tax refund. Minn. Stat. § 290A.10 was amended to provide that a taxpayer is only required to provide a property tax statement upon request by the commissioner. This section is effective for refunds based on rent paid after December 31, 2015, and property taxes payable after December 31, 2016.

Landlord submission of certificates of rent paid. Minn. Stat. § 290A.19 was amended to authorize the commissioner to require owners or managing agents of residential rental property to furnish to the commissioner, through a simple process, a copy of each certificate of rent paid furnished to a renter. If required, the certificate must be submitted in the content, format, and manner prescribed by the commissioner and is due by March 1 of the year following the year the rent was paid. Effective for certificates of rent paid for rent furnished to a renter for rent paid after December 31, 2016.

Repealer; State Construction Contractor Certification. Minn. Rules, pt. 8092.2000, was repealed because it duplicated statutory law and contained obsolete references to particular Department of Revenue forms regarding procedures construction contractors must follow to demonstrate compliance with income tax withholding obligations under Minn. Stat. § 270C.66. Effective May 31, 2017.