

Income Tax Fact Sheet 16, Aliens

If you are not a United States (U.S.) citizen, you are considered an alien for tax purposes. This fact sheet will help you determine your Minnesota tax responsibilities.

You Are Responsible for Meeting Your Tax Obligations

In many countries, the government assesses and collects taxes that are owed. In the U.S., it is your responsibility to meet your tax obligations. Some visas require that you stay in compliance with all laws of the U.S., including income tax filing.

In most cases, Minnesota employers will withhold (deduct) amounts from your pay for federal and state income taxes. Your employer will send the federal income tax to the Internal Revenue Service (IRS) and the state income tax to the Minnesota Department of Revenue.

You may be required to file a federal income tax return and a Minnesota state income tax return to report the income you received during the calendar year (January 1 - December 31). You may receive a refund if too much tax was withheld by your employers. If the amount withheld is not enough to meet your tax obligations, you will owe additional tax.

You should file a Minnesota return to claim a refund if you had any Minnesota tax withheld, made estimated tax payments, or qualify for certain refundable credits, even if your Minnesota gross income is less than the minimum filing requirement.

Determining Federal Residency Status

Before you can determine your Minnesota tax responsibilities, first determine your residency status for federal tax purposes.

The amount and type of income taxable by Minnesota depends largely on whether you are classified as a “resident” or “nonresident” alien for federal tax purposes.

To determine your federal residency status, see federal Publication 519, *U.S. Tax Guide for Aliens*.

Determining Minnesota Residency Status

After you determine your federal residency status, you need to determine your Minnesota residency status.

Resident Aliens

If you are considered a resident alien for federal tax purposes, you have the same filing and tax requirements of a United States citizen. As a resident alien, your Minnesota residency status is one of the following:

Full-Year Resident

If your principal residence was in Minnesota for the entire year, you are considered a full-year Minnesota resident. You should file Form M1, *Individual Income Tax*, if all of the following apply:

- You are required to file a federal income tax return
- You are considered a resident of Minnesota for tax purposes
- Your Minnesota gross income meets the minimum filing requirement

You will pay Minnesota tax on your taxable income from all sources, including sources not in Minnesota. For more information, see Income Tax Fact Sheet 1, *Residency*.

Part-Year Resident

If you moved into or out of Minnesota during the year, you are a part-year resident. If you are required to file a federal income tax return and your Minnesota gross income meets the minimum filing requirement, you are required to file Form M1 and Schedule M1NR, *Nonresidents/Part-Year Residents*. For more information, see Income Tax Fact Sheet 2, *Part-Year Residents*.

Nonresident

If you are considered a nonresident alien for federal tax purposes, you may be required to file a Minnesota income tax return depending on your Minnesota residency status and Minnesota gross income. If your Minnesota gross income meets the minimum filing requirement, you are required to file Form M1 and Schedule M1NR. For more information, see Income Tax Fact Sheet 3, *Nonresidents*.

The 183-Day Rule

You're considered a Minnesota resident for tax purposes (even if you have permanent residency in another state) if you meet both of the following conditions:

- You spend at least 183 days in Minnesota during the year (any part of a day counts as a full day)
- You or your spouse rent, own, maintain, or occupy a residence in Minnesota suitable for year-round use that is equipped with its own cooking and bathing facilities

If both conditions apply for the entire year, you must follow the filing requirements for a full-year Minnesota resident.

If you meet the first condition, but the second condition applies for less than the full year, you are considered a part-year resident for the time the second condition applies. You must follow the filing requirements for a part-year Minnesota resident.

The 183-day rule does not apply in the following situations:

- Members of the military (or their spouses) who are stationed in Minnesota, but are permanent residents of other states
- Residents of Michigan and North Dakota. These states have tax reciprocity agreements with Minnesota. For more information, see Income Tax Fact Sheet 4, *Reciprocity*

Nonresident Aliens

You may be required to file a Minnesota income tax return depending on your Minnesota residency status and Minnesota gross income.

If you are a full-year resident under the 183-day rule (see above), you must file a Minnesota income tax return.

If you are a part-year resident or nonresident under the 183-day rule (see above) and your gross income from Minnesota sources is more than \$12,200, you must file a Minnesota tax return and Schedule M1NR.

Completing Minnesota Income Tax Returns

The Minnesota income tax return begins with federal taxable income. You must complete your federal return before your Minnesota return. Your Minnesota filing status must be the same as your federal filing status. See the instructions for Form M1, *Individual Income Tax*, to complete your Minnesota income tax return.

Note: If you received a Form 1042-S showing Minnesota income tax was withheld, report the information on line 2 of Schedule M1W, *Minnesota Income Tax Withheld*.

Nonresident Aliens

Nonresident aliens are taxed differently than resident aliens and are not eligible for certain state tax deductions and credits. Some of the key differences include:

Filing Status

If you used any of the “married” filing statuses on your federal income tax return, you must use the “married filing separately” filing status on your Minnesota income tax return. This requirement applies even if you are allowed to claim an exemption for your spouse.

Itemized Deductions

Generally, you may only claim qualified itemized deductions on your Minnesota return. You are not allowed the standard deduction unless it’s provided in a tax treaty between your home country and the U.S.

State Tax Deduction

You must add the state tax deduction back to Minnesota taxable income on your Minnesota income tax return. Use one of the amounts listed below:

- The amount of state income tax from Schedule A of your Form 1040NR, *Nonresident Alien Income Tax Return*.
- The amount included on the “itemized deduction” line of your Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*.

Credits

Nonresident aliens do not qualify for the Minnesota Working Family Credit. Married nonresident aliens do not qualify for the Minnesota Marriage Credit, Child and Dependent Care Credit, or K-12 Education Credit because they must file separate Minnesota returns.

Minnesota Homestead Credit Refund (for Homeowners) and Renter’s Property Tax Refund, Form M1PR

Resident and nonresident alien homeowners and renters may apply for a refund of property taxes paid on their principal residence in Minnesota. Homeowners receive a Statement of Property Taxes Payable from the county and renters receive a CRP, *Certificate of Rent Paid*, from their landlord. These forms are needed to fill out Form M1PR, *Homestead Credit Refund (for Homeowners) and Renter’s Property Tax Refund*.

To qualify for the refund, all of the following must be true:

- You were a Minnesota resident for all or part of the year (nonresident aliens must meet the 183-day rule)
- You could not be claimed as a dependent on someone else’s federal income tax return (if you received over half of your support from relatives, you are considered a dependent and do not qualify for the refund)
- The property was assessed property taxes or payments must have been made in lieu of property taxes
- Your household income was below a certain amount

For household income qualifications, see instructions for Form M1PR.

Additional Homeowner Qualifications

Homeowners must homestead the property (relative homesteads do not qualify), occupy the property on January 2 of the year following the year of assessment, and own or hold a life estate in the property.

If you use an Individual Taxpayer Identification Number (ITIN) to file your tax return or you do not have a valid Social Security Number, you do not qualify for the refund as a homeowner. You must have a valid Social Security Number to homestead your property. Contact your county administrator for more information.

Household Income

Household income includes your taxable and nontaxable income from all sources.

To claim a refund, file Form M1PR, *Homestead Credit Refund (for Homeowners) and Renter's Property Tax Refund*. The following information may help resident and nonresident aliens calculate household income:

- Line 5 of Form M1PR must include nontaxable scholarship, tuition assistance, tuition waivers, and income excluded federally due to treaty benefits, in addition to other nontaxable income. For other types of income that must be included on line 5, see instructions for Form M1PR. You must specify the type of income you list on line 5.
- You may claim a dependent subtraction on line 7 of Form M1PR if your dependent is a U.S. citizen or resident, or if a dependent exemption is allowed by treaty.

Filing Situations

Example 1

Derrick, a foreign professor, rented an apartment in Minnesota beginning in August. Since he only lived in the apartment for five months during the tax year, he does not meet the 183-day rule and does not qualify for the Renter's Property Tax Refund.

Example 2

Julie, a foreign student, attends college in Minnesota. She receives income from a part-time job on campus, student loans, and scholarships. She does not receive money from relatives, so she is not someone else's dependent. Julie lives in a dorm on campus for the entire school year. Her dorm room does not have its own cooking or bathing facilities. During summer break, she rents an off-campus apartment and shares the rent with two other students. After the break, she moves back into a dorm room on campus. Her landlord gave her a CRP, *Certificate of Rent Paid*, giving her credit for one-third of the rent paid for the three months she lived in the apartment. Julie may qualify for the Renter's Property Tax Refund on the apartment because:

- She lived in Minnesota for more than 183 days
- She is not a dependent
- She rented an apartment (which is considered an abode)
- She paid property tax

Julie cannot claim the rent paid for her dorm. Generally, student housing does not pay property taxes and the dorm is not considered an abode.

Example 3

Marit, a foreign student, attends college in Minnesota. She earned \$3,000 in wages and received more than half of her support from her parents to pay rent for her apartment. Marit does not qualify for a Renter's Property Tax Refund because she is a dependent.

Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website.

Website: www.revenue.state.mn.us

Email: individual.incometax@state.mn.us

Phone: 651-296-3781 or 1-800-652-9094 (toll-free)

This information is available in alternate formats.