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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **2259**

March 20, 2007

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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; modifying taxation of certain compensation paid to  
1.3 nonresidents; amending Minnesota Statutes 2006, section 290.17, subdivision 2.

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

1.5 Section 1. Minnesota Statutes 2006, section 290.17, subdivision 2, is amended to read:

1.6 Subd. 2. **Income not derived from conduct of a trade or business.** The income of  
1.7 a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or  
1.8 business must be assigned in accordance with paragraphs (a) to (f):

1.9 (a)(1) Subject to paragraphs (a)(2); and (a)(3), ~~and (a)(4)~~; income from wages as  
1.10 defined in section 3401(a) and (f) of the Internal Revenue Code is assigned to this state if,  
1.11 and to the extent that, the work of the employee is performed within it; all other income  
1.12 from such sources is treated as income from sources without this state.

1.13 Severance pay shall be considered income from labor or personal or professional  
1.14 services.

1.15 (2) In the case of an individual who is a nonresident of Minnesota and who is an  
1.16 athlete or entertainer, income from compensation for labor or personal services performed  
1.17 within this state shall be determined in the following manner:

1.18 (i) The amount of income to be assigned to Minnesota for an individual who is a  
1.19 nonresident salaried athletic team employee shall be determined by using a fraction in  
1.20 which the denominator contains the total number of days in which the individual is under  
1.21 a duty to perform for the employer, and the numerator is the total number of those days  
1.22 spent in Minnesota. For purposes of this paragraph, off-season training activities, unless  
1.23 conducted at the team's facilities as part of a team imposed program, are not included in  
1.24 the total number of duty days. Bonuses earned as a result of play during the regular season

2.1 or for participation in championship, play-off, or all-star games must be allocated under  
2.2 the formula. Signing bonuses are not subject to allocation under the formula if they are  
2.3 not conditional on playing any games for the team, are payable separately from any other  
2.4 compensation, and are nonrefundable; and

2.5 (ii) The amount of income to be assigned to Minnesota for an individual who is a  
2.6 nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's  
2.7 athletic or entertainment performance in Minnesota shall be determined by assigning to  
2.8 this state all income from performances or athletic contests in this state.

2.9 (3) For purposes of this section, amounts received by a nonresident as "retirement  
2.10 income" as defined in section (b)(1) of the State Income Taxation of Pension Income  
2.11 Act, Public Law 104-95, are not considered income derived from carrying on a trade  
2.12 or business or from wages or other compensation for work an employee performed in  
2.13 Minnesota, and are not taxable under this chapter.

2.14 ~~(4) Wages, otherwise assigned to this state under clause (1) and not qualifying under~~  
2.15 ~~clause (3), are not taxable under this chapter if the following conditions are met:~~

2.16 ~~(i) the recipient was not a resident of this state for any part of the taxable year in~~  
2.17 ~~which the wages were received; and~~

2.18 ~~(ii) the wages are for work performed while the recipient was a resident of this state.~~

2.19 (b) Income or gains from tangible property located in this state that is not employed  
2.20 in the business of the recipient of the income or gains must be assigned to this state.

2.21 (c) Income or gains from intangible personal property not employed in the business  
2.22 of the recipient of the income or gains must be assigned to this state if the recipient of the  
2.23 income or gains is a resident of this state or is a resident trust or estate.

2.24 Gain on the sale of a partnership interest is allocable to this state in the ratio of the  
2.25 original cost of partnership tangible property in this state to the original cost of partnership  
2.26 tangible property everywhere, determined at the time of the sale. If more than 50 percent  
2.27 of the value of the partnership's assets consists of intangibles, gain or loss from the sale  
2.28 of the partnership interest is allocated to this state in accordance with the sales factor of  
2.29 the partnership for its first full tax period immediately preceding the tax period of the  
2.30 partnership during which the partnership interest was sold.

2.31 Gain on the sale of goodwill or income from a covenant not to compete that is  
2.32 connected with a business operating all or partially in Minnesota is allocated to this state  
2.33 to the extent that the income from the business in the year preceding the year of sale was  
2.34 assignable to Minnesota under subdivision 3.

2.35 When an employer pays an employee for a covenant not to compete, the income  
2.36 allocated to this state is in the ratio of the employee's service in Minnesota in the calendar

3.1 year preceding leaving the employment of the employer over the total services performed  
3.2 by the employee for the employer in that year.

3.3 (d) Income from winnings on a bet made by an individual while in Minnesota is  
3.4 assigned to this state. In this paragraph, "bet" has the meaning given in section 609.75,  
3.5 subdivision 2, as limited by section 609.75, subdivision 3, clauses (1), (2), and (3).

3.6 (e) All items of gross income not covered in paragraphs (a) to (d) and not part of the  
3.7 taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

3.8 (f) For the purposes of this section, working as an employee shall not be considered  
3.9 to be conducting a trade or business.

3.10 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
3.11 December 31, 2006.