

Reciprocity — Employee Withholding

For employers who employ Michigan or North Dakota residents to work in Minnesota or Minnesota residents to work in Michigan or North Dakota

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Withholding Tax Fact Sheet 20

Fact Sheet

This fact sheet explains the Minnesota law for employee income tax withholding and reciprocity agreements with Michigan and North Dakota. If you need more information, email or call us using the contact information at the bottom of this page.

Note: The individual income tax reciprocity with Wisconsin ended, effective January 1, 2010. As a result, Minnesota employers must begin withholding Minnesota income taxes on personal service income of Wisconsin residents working in Minnesota. Likewise, if you're a Wisconsin employer, you must begin withholding Wisconsin taxes on personal service income of Minnesota residents working in Wisconsin.

[M.S. 290.92, subd. 4a(3)]

Reciprocity exemption

Minnesota has income tax reciprocity agreements with Michigan and North Dakota.

Employees who are employed outside their state of residence may be subject to income tax laws of two states—their resident state and the state in which they are employed. Reciprocity helps to prevent the same personal service income (wages, salaries, tips, commissions, bonuses) from being taxed by more than one state. Generally, only the employee's home state will tax his or her personal service income earned while working in a reciprocity state.

For an employee to qualify for the reciprocity exemption, both of the following conditions must apply for the year:

- The employee must be a resident of Michigan or North Dakota who works in Minnesota—or a Minnesota resident who works in Michigan or North Dakota—and returns to his or her state of residence at least once a month, and
- The employee received personal service income from working in a reciprocity state.

To be eligible for the exemption, current employees must give their employer Form MWR, *Reciprocity Exemption/Affidavit of Residency*, each year by February 28 or within 30 days after they begin working or change their residence.

Withholding tax for Minnesota

Minnesota companies with employees who are residents of reciprocity states

If you are a Minnesota company and you are required to withhold federal income tax from an employee's wages who is a resident of a reciprocity state, in most cases you are also required to withhold Minnesota income tax.

However, if your employee does not want you to withhold Minnesota tax from his or her wages, they must give you a completed Form MWR, *Reciprocity Exemption/Affidavit of Residency*, by February 28 of each year, or within 30 days after he or she begins working or changes their permanent residence. To continue to be exempt from Minnesota withholding tax, the employee must submit a new Form MWR to you each year.

You have until March 31 of each year or within 30 days after the employee gives you a Form MWR to submit copies to the department. For details, see Form MWR instructions.

Companies in reciprocity states with employees who are Minnesota residents

If you are a company located in a reciprocity state, you are not required to withhold Minnesota tax from an employee who is a Minnesota resident. However, you may choose to do so as a courtesy to your employee.

If you choose not to withhold Minnesota tax, your employee may be required to make regular estimated tax payments to us. Your employee is required to pay estimated tax if he or she expects to owe \$500 or more on their Minnesota income tax return.

Withholding tax for employee's state of residence

Minnesota companies with employees who are residents of a reciprocity state

If you are a Minnesota company with an employee who is a resident of Michigan or North Dakota, you are not required to withhold income tax for the reciprocity state, but are encouraged to do so as a courtesy to your employee.

Contact the reciprocity state's Department of Revenue for instructions. (See "For additional information" on back.)

continued

Withholding Tax Division, Mail Station 6501, St. Paul, MN 55146-6501
Phone: 651-282-9999 or 1-800-657-3594
Minnesota Relay 711 (TTY)
Fax: 651-556-5152
Email: withholding.tax@state.mn.us

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This fact sheet is intended to help you become more familiar with Minnesota tax laws and your rights and responsibilities under the laws. Nothing in this fact sheet supersedes, alters or otherwise changes any provisions of the tax law, administrative rules, court decisions or revenue notices. Alternative formats available upon request.

If you choose not to withhold, your employee may be required to make regular estimated tax payments to the reciprocity state.

Companies in reciprocity states with employees who are Minnesota residents

If you are a company located in a reciprocity state and you choose to withhold Minnesota tax from an employee who is a Minnesota resident, you must register for a Minnesota tax ID number.

If you already have a Minnesota tax ID for other Minnesota taxes for the same business, you can update the same number to also use it for withholding tax. Go to our website at www.taxes.state.mn.us and click “Update business info” on the e-Services menu.

If you do not have a Minnesota tax ID, you must apply for one. Go to www.taxes.state.mn.us and click “Register for a Minnesota tax ID number” on the e-Services menu. If you do not have Internet access, you may call our Registration Services office at 651-282-5225 or 1-800-657-3605.

Reporting information on the company’s Minnesota withholding tax return

When you are filing your **Minnesota** withholding tax return, **always report wages** of the employee who has supplied you with a Form MWR, even if you are withholding tax for the reciprocity state. However, do not report the tax withheld for the other state on your Minnesota return.

If you withheld tax for the reciprocity state, be sure to contact that state for instructions.

If you withheld tax for both Minnesota and the reciprocity state, report the Minnesota tax withheld on your Minnesota withholding tax return and report the amount that was withheld for the reciprocity state on that state’s tax return.

Completing Form W-2 when you have a valid Form MWR

If you **did not withhold tax** for Minnesota or the employee’s state of residence, complete the employee’s Form W-2 as follows:

- in box 15 (State), enter the employee’s state of residence
- in box 16 (State wages, tips, etc.), enter the employee’s wages
- in box 17 (State tax), enter zero

If you **withheld tax for your employee’s state of residence**, complete your employee’s Form W-2 as follows:

- in box 15 (State), enter the employee’s state of residence
- in box 16 (State wages, tips, etc.), enter the employee’s wages
- in box 17 (State tax), enter the total tax withheld for the year for the state of residence.

You may be required to send the state of residence a copy of the employee’s Form W-2. Contact the state of residence for requirements.

If you received a valid Form MWR from your employee, you are not required to send a copy of the Form W-2 to Minnesota. However, you may be required to send a copy of the employee’s Form W-2 to his or her state of residence.

Keep a copy of the employee’s Form W-2 with your tax records.

Penalties

A \$50 penalty may be assessed to the employer for each required Form MWR that is not sent to the address provided on the form.

An employee who files a Form MWR that he or she knows is incorrect is subject to a \$500 penalty for each incorrect form filed.

For additional information

If you need additional information or forms, contact:

- **Minnesota** Department of Revenue: www.taxes.state.mn.us
For withholding questions: 651-282-9999 or 1-800-657-3594
Email: withholding.tax@state.mn.us
To request Form MWR: 651-296-4444 or 1-800-657-3676
- **Michigan** Department of Treasury:
www.michigan.gov/treasury
Email: treasSUW@michigan.gov
Questions: 517-636-4730
Forms: 1-800-827-4000
- **North Dakota** Office of State Tax Commissioner:
www.nd.gov/tax
Email: withhold@nd.gov
Questions: 701-328-1248
Forms: 701-328-7088