

39.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

39.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(A) “Municipal Taxable Income” for a resident of the municipality is calculated as follows:

(1) “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (22)(B) of section 39.03 of this chapter equals “Municipal Taxable Income”.

(a) “Income” is defined in section 39.03 (16) of this chapter.

(i) “Qualifying Wages” is defined in section 39.03(36).

(ii) “Net profit” is included in “income” and is defined in section 39.03 (25) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of section 39.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).

(iii) Section 39.03(16) provides the following: offsetting and net operating loss carryforward treatment in (16)(A)(ii)(a); resident’s distributive share of net profit from pass through entity treatment in (16)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (16)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (16)(A)(iv).

(iv) “Pass Through Entity” is defined in section 39.03(30).

(b) “Exempt Income” is defined in section 39.03(13) of this chapter.

(c) Allowable employee business expense deduction is described in (22)(B) of section 39.03 of this chapter and is subject to the limitations provided in that section.

(B) “Municipal Taxable Income” for a nonresident of the municipality is calculated as follows:

(1) “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the municipality as provided in section 39.062 of this chapter, reduced by allowable employee business expense deduction as found in (22)(B) of section 39.03 of this chapter equals “Municipal Taxable Income”.

- (a) “Income” is defined in section 39.03(16) of this chapter.
 - (i) “Qualifying Wages” is defined in section 39.03(36).
 - (ii) “Net profit” is included in “income” and is defined in section 39.03(25) of this chapter. “Net profit” for a nonresident individual includes any net profit of the nonresident but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) “Pass Through Entity” is defined in section 39.03(30).
- (b) “Exempt Income” is defined in section 39.03(13) of this chapter.
- (c) “Apportioned or sitused to the municipality as provided in section 39.062 of this chapter” includes the apportionment of net profit income attributable to work done or services performed in the municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).
- (d) “Allowable employee business expense deduction” as described in (22)(B) of section 39.03 of this chapter, is subject to the limitations provided in that section. For a nonresident of the municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the municipality.