

S. 3998

A. 6266

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

March 11, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the definition of a resident for the purposes of the personal income tax

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 1 of subsection (b) of section 605 of the tax
2 law, as amended by chapter 28 of the laws of 1987, subparagraph (A) as
3 amended by section 1 of part A-1 of chapter 57 of the laws of 2009, is
4 amended to read as follows:
5 (1) Resident individual. A resident individual means an individual:
6 (A) who is domiciled in this state, unless (i) the taxpayer maintains no
7 permanent place of abode in this state, maintains a permanent place of
8 abode elsewhere, and spends in the aggregate not more than thirty days
9 of the taxable year in this state, or (ii) (I) within any period of five
10 hundred forty-eight consecutive days the taxpayer is present in a
11 foreign country or countries for at least four hundred fifty days, and
12 (II) during the period of five hundred forty-eight consecutive days the
13 taxpayer, the taxpayer's spouse (unless the spouse is legally separated)
14 and the taxpayer's minor children are not present in this state for more
15 than ninety days, and (III) during the nonresident portion of the taxable
16 year with or within which the period of five hundred forty-eight
17 consecutive days begins and the nonresident portion of the taxable year
18 with or within which the period ends, the taxpayer is present in this
19 state for a number of days which does not exceed an amount which bears
20 the same ratio to ninety as the number of days contained in that portion
21 of the taxable year bears to five hundred forty-eight, or

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (B) who is not domiciled in this state but maintains a permanent place
2 of abode in this state and spends in the aggregate more than one hundred
3 eighty-three days of the taxable year in this state, OF WHICH AT LEAST
4 ONE HUNDRED TWENTY OF SUCH DAYS ARE SPENT AT SAID PERMANENT PLACE OF
5 ABODE, unless such individual is in active service in the armed forces
6 of the United States.

7 S 2. This act shall take effect immediately.