

CHAPTER 290A

PROPERTY TAX REFUND ACT

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290A.03 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1984]

Subd. 3. **Income.** (1) "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through May 25, 1985; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in section 290.01, subdivision 20a, clauses (1), (2), (3), and (4);

(ii) all nontaxable income;

(iii) recognized net long-term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vii) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits;

(xi) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

(xii) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954; and

(xiii) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code of 1954; or deferred compensation plan under section 457 of the Internal Revenue Code of 1954.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carryback.

(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a), 102, 117, and 121;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter;

(e) child support payments received under a temporary or final decree of dissolution or legal separation; or

(f) the first \$2,000 of household income if the claimant was disabled on or before June 1 or attained the age of 65 prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid.

[For text of subs 4 and 5, see M.S.1984]

Subd. 6. **Homestead.** "Homestead" means the dwelling occupied by a claimant as his principal residence and so much of the land surrounding it, not exceeding ten acres, as is reasonably necessary for use of the dwelling as a home and any other property used for purposes of a homestead as defined in section 273.13, subdivision 22, except for agricultural land assessed as part of a homestead pursuant to section 273.13, subdivision 23, "homestead" is limited to 320 acres or, where the farm homestead is rented, one acre. The homestead may be owned or rented and may be a part of a multidwelling or multipurpose building and the land on which it is built. A manufactured home, as defined in section 168.011, subdivision 8, assessed as personal property may be a dwelling for purposes of this subdivision.

[For text of subs 7 to 10, see M.S.1984]

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means the amount of gross rent actually paid in cash, or its equivalent, which is attributable (a) to the property tax paid on the unit or (b) to the amount paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of his Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant. The amount of rent attributable to property taxes paid or payments in lieu made on the unit shall be determined by multiplying the net tax on the property where the unit is located by a fraction, the numerator of which is the gross rent paid by the claimant for the calendar year for the unit and the denominator of which is the gross rent paid for the calendar year for the property in which the unit is located. In no case may the rent constituting property taxes exceed 50 percent of the gross rent paid by the claimant during that calendar year. In the case of a claimant who resides in a unit for which (1) a rent subsidy is paid to, or for, the claimant based on the income of the claimant or the claimant's family, or (2) a subsidy is paid to a public housing authority that owns or operates the claimant's rental unit, pursuant to United States Code, title 42, section 1437c, 20 percent of gross rent actually paid in cash or its equivalent shall be the claimant's "rent constituting property taxes paid." For purposes of this subdivision, "rent subsidy" does not include any housing assistance received under aid to families with dependent children, general assistance, Minnesota supplemental assistance, supplemental security income, or similar income maintenance programs.

Subd. 12. **Gross rent.** "Gross rent" means rental paid for the right of occupancy, at arms-length, of a homestead, exclusive of charges for any medical services furnished by the landlord as a part of the rental agreement, whether expressly set out in the rental agreement or not. If the landlord and tenant have not

dealt with each other at arms-length and the commissioner determines that the gross rent charged was excessive, he may adjust the gross rent to a reasonable amount for purposes of this chapter.

Any amount paid by a claimant residing in property assessed pursuant to section 273.13, subdivision 3, 4, 5, or 6 for occupancy in that property shall be excluded from gross rent for purposes of this chapter. However, property taxes imputed to the homestead of the claimant or the dwelling unit occupied by the claimant that qualifies for homestead treatment pursuant to section 273.13, subdivision 3, 4, 5, or 6 shall be included within the term "property taxes payable" as defined in subdivision 13, notwithstanding the fact that ownership is not in the name of the claimant.

Subd. 13. Property taxes payable. "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead before reductions made pursuant to section 273.13, subdivisions 22 and 23, but after deductions made pursuant to sections 124.2137, 273.115, 273.116, 273.135, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 168.011, subdivision 8, "property taxes payable" shall also include the amount of the gross rent paid in the preceding year for the site on which the homestead is located, which is attributable to the net tax paid on the site. The amount attributable to property taxes shall be determined by multiplying the net tax on the parcel by a fraction, the numerator of which is the gross rent paid for the calendar year for the site and the denominator of which is the gross rent paid for the calendar year for the parcel. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue and his decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.13, subdivision 22 or 23 on or before June 1 of the year in which the "property taxes payable" were levied; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made prior to October 1 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

Subd. 14. Net tax. "Net tax" means

(a) the property tax, exclusive of special assessments, interest, and penalties, and after reduction for any state paid property tax credits as required in subdivision 13 except for the reduction pursuant to section 273.13, subdivisions 22 and 23, or

(b) the payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes,

for the calendar year in which the rent was paid. If a portion of the property is occupied as a homestead or is used for other than rental purposes, the net tax shall

be the amount of tax reduced by the percentage that the nonrental use comprises of the total square footage of the building. If a portion of the property is used for purposes other than for residential rental and none of the property is occupied as a homestead, the net tax shall be the amount of the tax of the parcel multiplied by a fraction, the numerator of which is the assessed value of the residential rental portion and the denominator of which is the total assessed value of the parcel. If a portion of the property is used for other than rental residential purposes, the county treasurer shall list on the property tax statement the amount of net tax pertaining to the rental residential portion of the property.

The amount of the net tax shall not be reduced by an abatement or a court ordered reduction in the property tax on the property made after the certificate of rent constituting property tax has been provided to the renter.

History: 1985 c 210 art 1 s 17; art 2 s 9; 1Sp1985 c 14 art 1 s 58; art 4 s 85-88; art 5 s 1

290A.04 REFUND ALLOWABLE.

Subdivision 1. A refund shall be allowed each claimant in the amount that property taxes payable or rent constituting property taxes exceed the percentage of the household income of the claimant specified in subdivision 2 in the year for which the taxes were levied or in the year in which the rent was paid as specified in subdivision 2. If the amount of property taxes payable or rent constituting property taxes is equal to or less than the percentage of the household income of the claimant specified in subdivision 2 in the year for which the taxes were levied or in the year in which the rent was paid, the claimant shall not be eligible for a state refund pursuant to this section. For purposes of claiming this refund, a claimant who owns his own homestead part of the year and rents part of the year may add his rent constituting property taxes to the qualifying tax on his homestead.

Subd. 2. A claimant whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and			
up to \$2,999	1.0 percent	5 percent	\$1,125
3,000 to 3,499	1.0 percent	6 percent	\$1,125
3,500 to 3,999	1.0 percent	7 percent	\$1,125
4,000 to 4,499	1.0 percent	8 percent	\$1,125
4,500 to 4,999	1.0 percent	9 percent	\$1,125
5,000 to 5,999	1.0 percent	10 percent	\$1,125
6,000 to 6,999	1.0 percent	11 percent	\$1,125
7,000 to 7,999	1.0 percent	12 percent	\$1,125
8,000 to 8,999	1.1 percent	13 percent	\$1,125
9,000 to 9,999	1.2 percent	14 percent	\$1,125
10,000 to 10,999	1.3 percent	15 percent	\$1,125
11,000 to 11,999	1.4 percent	16 percent	\$1,125
12,000 to 12,999	1.5 percent	17 percent	\$1,125

13,000 to 13,999	1.5 percent	18 percent	\$1,125
14,000 to 14,999	1.5 percent	19 percent	\$1,125
15,000 to 15,999	1.5 percent	20 percent	\$1,125
16,000 to 16,999	1.5 percent	21 percent	\$1,125
17,000 to 17,999	1.5 percent	22 percent	\$1,125
18,000 to 18,999	1.5 percent	23 percent	\$1,125
19,000 to 19,999	1.5 percent	24 percent	\$1,125
20,000 to 20,999	1.6 percent	25 percent	\$1,125
21,000 to 21,999	1.6 percent	27 percent	\$1,125
22,000 to 22,999	1.6 percent	29 percent	\$1,125
23,000 to 23,999	1.8 percent	31 percent	\$1,125
24,000 to 24,999	1.8 percent	33 percent	\$1,105
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$ 990
29,000 to 29,999	2.0 percent	47 percent	\$ 960
30,000 to 30,999	2.0 percent	50 percent	\$ 930
31,000 to 31,999	2.2 percent	50 percent	\$ 900
32,000 to 32,999	2.2 percent	50 percent	\$ 800
33,000 to 33,999	2.2 percent	50 percent	\$ 700
34,000 to 34,999	2.2 percent	50 percent	\$ 600
35,000 to 35,999	2.2 percent	50 percent	\$ 500
36,000 to 36,999	2.4 percent	50 percent	\$ 400
37,000 to 37,999	2.4 percent	50 percent	\$ 300
38,000 to 38,999	2.4 percent	50 percent	\$ 200
39,000 to 39,999	2.4 percent	50 percent	\$ 100
40,000 and over	2.4 percent	50 percent	-0-

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is \$40,000 or more.

NOTE: Subdivision 2 as amended by Laws 1985, First Special Session chapter 14, article 4, section 89 is effective for taxes levied in 1986 and payable in 1987 and thereafter.

Subd. 2a. [Repealed, 1Sp1985 c 14 art 5 s 5]

Subd. 2b. [Repealed, 1Sp1985 c 14 art 5 s 7]

[For text of subds 2e to 2g, see M.S.1984]

Subd. 3. The commissioner of revenue shall construct and make available to taxpayers a comprehensive table showing the property taxes to be paid and refund allowed at various levels of income and assessment. The table shall follow the schedule of income percentages, maximums and other provisions specified in subdivision 2, except that the commissioner may graduate the transition between income brackets. All refunds shall be computed in accordance with tables prepared and issued by the commissioner of revenue.

History: 1Sp1985 c 14 art 4 s 89; art 5 s 2-4

290A.06 FILING TIME LIMIT, LATE FILING.

Any claim for property taxes payable shall be filed with the department of revenue on or before August 15 of the year in which the property taxes are due and payable. Any claim for rent constituting property taxes shall be filed with the

department of revenue on or before August 15 of the year following the year in which the rent was paid. The commissioner may extend the time for filing these claims for a period not to exceed six months in the case of sickness, absence, or other disability, or when in his judgment other good cause exists.

A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent which may be canceled or reduced by the commissioner in the case of sickness, absence, or other disability, or when in his judgment other good cause exists. In any event no claim shall be allowed if the initial claim is filed one year after the original due date for filing the claim.

The time limit on redetermination of claims for refund and examination of records shall be governed by sections 290.49, 290.50, and 290.56 and for purposes of computing the time limit as provided in these sections the due date of the property tax refund return shall be the same as the due date contained in section 290.42 for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

History: *1Sp1985 c 14 art 5 s 5*

290A.07 TIME FOR PAYMENT.

[For text of subd 1, see M.S.1984]

Subd. 2a. A claimant who is a renter shall receive full payment after August 1 and prior to August 15 or 60 days after receipt of the application, whichever is later. Interest shall be added at the rate specified in section 270.76 from August 15 or 60 days after receipt of the application whichever is later.

Subd. 3. Any claimant not included in subdivision 2a shall receive full payment after September 15 and prior to September 30. Interest shall be added at the rate specified in section 270.76 from September 30 or 60 days after receipt of the application, whichever is later. Interest will be computed until the date the claim is paid.

History: *1Sp1985 c 14 art 15 s 11,12*

290A.11 OBJECTIONS TO CLAIMS.

[For text of subds 1 and 1a, see M.S.1984]

Subd. 2. **Fraudulent claim; penalty.** In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate specified in section 270.75.

Any person who knowingly prepares, assists in preparing, or files a false or excessive claim or claims with the intent of defrauding the state of Minnesota, is guilty of an offense and may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, exceeds \$2,500; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, is more than \$300, but not more than \$2,500; or

(3) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000; or both, if the amount of the claim or claims does not exceed \$300.

Notwithstanding the provisions of section 628.26, or any other provisions of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

[For text of subds 3 and 4, see M.S.1984]

Subd. 5. Assignment of refund. The commissioner shall not honor an assignment by the claimant to another person or entity of a property tax refund prior to the refund check being presented to the claimant.

History: 1985 c 210 art 1 s 18,19

290A.111 ACTION TO ENJOIN PROPERTY TAX REFUND RETURN PREPARERS.

[For text of subd 1, see M.S.1984]

Subd. 2. Adjudication and decrees. In any action under subdivision 1, if the court finds that a property tax refund return preparer has:

(1) engaged in any conduct subject to the criminal penalty provided by section 290A.11, subdivision 2, or subject to the civil penalty under section 290A.112,

(2) misrepresented his eligibility to practice before the department of revenue, or otherwise misrepresented his experience or education as a property tax refund return preparer,

(3) guaranteed the payment of any property tax refund,

(4) engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the provisions of this chapter,

the court may decree appropriate injunctive relief pursuant to the authority granted in section 290.521, subdivision 2.

[For text of subd 3, see M.S.1984]

History: 1985 c 248 s 49

290A.19 OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; PENALTY.

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent constituting property tax to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the owner or managing agent shall at his option either provide the certificate to the renter at the time he moves, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate shall be made available to the renter not later than January 31 of the year following the year in which the rent was paid. Any owner or managing agent who willfully fails to furnish a certificate as provided herein shall be liable to the commissioner for a penalty of \$20 for each act or failure

to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax.

(b) If the owner or managing agent elects to provide the renter with the certificate at the time he moves, rather than after December 31, the amount of rent constituting property taxes shall be computed as follows:

(i) The net tax shall be reduced by 1/12th for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy shall be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

(c) The certificate of rent constituting property taxes shall include the address of the property, including the county, and the property tax parcel identification number and any additional information which the commissioner determines is appropriate.

(d) If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer which gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

History: 1985 c 210 art 1 s 20; 1Sp1985 c 14 art 5 s 6