

CHAPTER 290A

PROPERTY TAX REFUND ACT

- | | |
|--|---|
| 290A.01 Citation. | 290A.12 Appeal. |
| 290A.02 Purpose. | 290A.13 No relief allowed in certain cases. |
| 290A.03 Definitions. | 290A.14 Property tax statement. |
| 290A.04 Refund allowable. | 290A.15 Claim applied against outstanding liability. |
| 290A.05 Combined household income. | 290A.17 Publishing or releasing information on claims. |
| 290A.06 Filing time limit, late filing. | 290A.18 Right to file claim. |
| 290A.07 Time for payment. | 290A.19 Owner or managing agent to furnish rent certificate; penalty. |
| 290A.08 One claimant per household. | 290A.20 Rules. |
| 290A.09 Proof of claim. | 290A.22 Supplemental housing allowance for AFDC recipients. |
| 290A.10 Proof of taxes paid. | 290A.23 Appropriation. |
| 290A.11 Objections to claims. | |
| 290A.111 Action to enjoin property tax refund return preparers. | |
| 290A.112 Overstatement of taxpayer's claim by property tax refund return preparer. | |

290A.01 CITATION.

This chapter may be cited as the "state of Minnesota property tax refund act."

History: 1975 c 437 art 1 s 1; 1977 c 423 art 2 s 1; 1Sp1981 c 4 art 1 s 137; 1984 c 514 art 4 s 17

290A.02 PURPOSE.

The purpose of this chapter is to provide property tax relief to certain persons who own or rent their homesteads.

History: 1975 c 437 art 1 s 2; 1Sp1981 c 4 art 1 s 138; 1984 c 514 art 4 s 17

290A.03 DEFINITIONS.

Subdivision 1. **Generally.** The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates a different meaning.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of revenue of the state of Minnesota.

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 December 31, 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.

Subd. 4. Household. "Household" means a claimant and an individual related to the claimant as husband or wife who are domiciled in the same homestead.

Subd. 5. Household income. "Household income" means all income received by all persons of a household in a calendar year while members of the household, other than income of a dependent.

Subd. 6. Homestead. "Homestead" means the dwelling occupied as the claimant's 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 274.19, subdivision 8, assessed as personal property may be a dwelling for purposes of this subdivision.

Subd. 7. Dependent. "Dependent" means any person who is under 18 years of age at the end of the calendar year who receives more than 50 percent of support from the claimant, or who is between 18 and 21 years of age and is a full time student who receives more than 50 percent of support from the claimant. "Dependent" includes a parent of the claimant or spouse who lives in the claimant's homestead. "Dependent" includes a person over 18 years of age who lives in the claimant's homestead and who receives more than 50 percent of support from the claimant.

Subd. 8. Claimant. (a) "Claimant" means a person, other than a dependent, who filed a claim authorized by this chapter and who was domiciled in this state during the calendar year for which the claim for relief was filed.

(b) In the case of a claim relating to rent constituting property taxes, the claimant shall have resided in a rented or leased unit on which ad valorem taxes or payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes, are payable at some time during the calendar year covered by the claim.

(c) "Claimant" shall not include a resident of a nursing home, intermediate care facility, or long-term residential facility whose rent constituting property taxes is paid pursuant to the supplemental security income program under title XVI of the Social Security Act, the Minnesota supplemental aid program under sections 256D.35 to 256D.41, the medical assistance program pursuant to title XIX of the Social Security Act, or the general assistance medical care program pursuant to section 256D.03, subdivision 3. If only a portion of the rent constituting property taxes is paid by these programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section 290A.04 shall be multiplied by a fraction, the numerator of which is income as defined in subdivision 3 reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in subdivision 3 plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter. For purposes of this paragraph and paragraph (d), household income or income as defined in subdivision 3 must not be reduced by the \$2,000 reduction provided in subdivision 3, paragraph (2), clause (f), for claimants who are disabled or age 65 or more.

(d) Notwithstanding paragraph (c), if the claimant was a resident of the nursing home, intermediate care facility or long-term residential facility for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home, intermediate care facility, or long-term residential facility and use only that amount of rent constituting property taxes or property taxes payable relating to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

(e) In the case of a claim for rent constituting property taxes of a part-year Minnesota resident, the income and rental reflected in this computation shall be for the period of Minnesota residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. If a homestead property owner was a part-year Minnesota resident, the income reflected in the computation made pursuant to section 290A.04 shall be for the entire calendar year, including income not assignable to Minnesota.

(f) If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be each renter's household income for purposes of computing the amount of credit to be allowed.

Subd. 9. Disabled claimant. "Disabled claimant" means any claimant who has a disability.

Subd. 10. Disability. "Disability" means:

(a) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or

(b) Blindness; and the term "blindness" means central acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

(c) An individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do previous work but cannot, considering age, education, and work experience, engage in any other kind of substantial gainful work which exists in the state economy, regardless of whether the work exists in the immediate area of residence, or whether a specific job vacancy exists for the individual, or whether the individual would be hired on applying for work. For purposes of the preceding sentence, "work which exists in the state economy" means work which exists in significant numbers either in the area where the individual lives or in several areas of the state.

(d) A "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

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 the claimant's 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, the commissioner 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 274.19, 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 whose 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: 1975 c 359 s 23; 1975 c 437 art 1 s 3; 1976 c 245 s 2; 1976 c 268 s 2; 1976 c 334 s 15; 1977 c 376 s 12; 1977 c 423 art 2 s 2-8; 1978 c 721 art 9 s 2; 1979 c 303 art 2 s 28-30; 1980 c 419 s 43,44; 1980 c 607 art 3 s 1; 1981 c 60 s 24; 1981 c 178 s 112,113; 1981 c 343 s 36; 1981 c 365 s 9; 1Sp1981 c 1 art 3 s 2; art 5 s 9; art 8 s 16; 1Sp1981 c 4 art 1 s 139-142; 1982 c 523 art 1 s 63,64; art 8 s 1; art 36 s 2; art 40 s 13; 1983 c 15 s 28; 1983 c 294 s 4,5; 1983 c 342 art 1 s 40; art 4 s 1-5; 1984 c 514 art 1 s 7; art 2 s 32,33; art 3 s 8; art 4 s 10,11,17; 1984 c 522 s 9,10; 1984 c 655 art 1 s 51; 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; 1986 c 444; 1Sp1986 c 1 art 1 s 8; art 3 s 20; art 4 s 38,39

290A.04 REFUND ALLOWABLE.

Subdivision 1. A refund shall be allowed each claimant in the amount that

MINNESOTA STATUTES 1986

5809

PROPERTY TAX REFUND ACT 290A.04

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 a homestead part of the year and rents part of the year may add the rent constituting property taxes to the qualifying tax on the 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

MINNESOTA STATUTES 1986

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.

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

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

Subd. 2c. [Repealed, 1983 c 15 s 33]

Subd. 2d. [Repealed, 1983 c 15 s 33]

Subd. 2e. If the net property taxes payable on a homestead increase more than 20 percent over the net property taxes payable in the previous year on the same property, a claimant who is a homeowner shall be allowed an additional refund equal to 100 percent of the amount by which the increase exceeds 20 percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead. The refund shall be reduced by one-tenth for each \$1,000 of claimant's household income in excess of \$40,000.

No refund pursuant to this subdivision shall be allowed if the claimant's household income exceeds \$50,000.

For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made pursuant to sections 124.2137; 273.13, subdivisions 6, 7, and 14a; 273.115, subdivision 1; 273.116, subdivision 1; 273.135; 273.1391; and 273.42, subdivision 2, and any other state paid property tax credits and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivisions 2, 2a and 2b.

In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

This subdivision is repealed effective for property taxes levied in 1984, payable in 1985.

Subd. 2f. [Repealed, 1Sp1986 c 1 art 3 s 21]

Subd. 2g. If the net property taxes payable on a homestead in 1985 increase more than 12.5 percent over the net property taxes payable in 1984 on the same property, a claimant who is a homeowner shall be allowed an additional refund equal to 50 percent of the amount by which the increase exceeds 12.5 percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead. The refund shall not exceed \$400.

For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made pursuant to sections 124.2137; 273.13, subdivisions 6, 7, and 14a; 273.115, subdivision 1; 273.116, subdivision 1; 273.135; 273.1391; and 273.42, subdivision 2, and any other state paid property tax credits and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivisions 2, 2a, and 2b.

In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

This subdivision is repealed effective for property taxes levied in 1985, payable in 1986.

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: 1975 c 437 art 1 s 4; 1976 c 245 s 3,4; 1977 c 423 art 2 s 9-11; 1978 c 766 s 9,10; 1979 c 303 art 2 s 31-34; 1980 c 607 art 3 s 2; 1981 c 178 s 114,115; 1Sp1981 c 1 art 2 s 19,20; 1983 c 15 s 29; 1983 c 342 art 4 s 6-12; 1984 c 502 art 3 s 21-23; 1984 c 514 art 4 s 12,13; 1Sp1985 c 14 art 4 s 89; art 5 s 2-4; 1986 c 444

290A.05 COMBINED HOUSEHOLD INCOME.

If a person occupies a homestead with another person or persons not related to the person as husband and wife, excluding dependents, roomers or boarders on contract, and has property tax payable with respect to the homestead, the household income of the claimant or claimants for the purpose of computing the refund allowed by section 290A.04 shall include the total income received by the other persons residing in the homestead. If a person occupies a homestead with another person or persons not related as husband and wife or as dependents, the property tax payable or rent constituting property tax shall be reduced as follows.

If the other person or persons are residing at the homestead under rental or lease agreement, the amount of property tax payable or rent constituting property tax shall be that portion not covered by the rental agreement.

History: 1975 c 437 art 1 s 5; 1977 c 423 art 2 s 12; 1983 c 294 s 6; 1984 c 522 s 11

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 the commissioner's 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 the commissioner's 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: 1975 c 437 art 1 s 6; 1976 c 334 s 16; 1977 c 386 s 10; 1980 c 607 art 3 s 3; 1981 c 178 s 116; 1Sp1985 c 14 art 5 s 5; 1986 c 444

290A.07 TIME FOR PAYMENT.

Subdivision 1. Allowable claims filed pursuant to the provisions of this chapter shall be paid by the commissioner from the general fund.

Subd. 2. [Repealed, 1982 c 641 art 2 s 13]

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.

Subd. 4. [Repealed, 1981 c 343 s 43]

History: 1975 c 437 art 1 s 7; 1980 c 419 s 45; 1981 c 178 s 117; 1981 c 343 s 37,38; 1Sp1981 c 3 s 6-8; 1982 c 523 art 1 s 65; 1982 c 641 art 2 s 2,3; 1983 c 342 art 4 s 13; 1984 c 514 art 3 s 9,10; 1Sp1985 c 14 art 15 s 11,12

290A.08 ONE CLAIMANT PER HOUSEHOLD.

Only one claimant per household per year is entitled to relief under this chapter. Payment of the claim for relief may be made payable to the husband and wife as one claimant. The commissioner, upon written request, may issue separate checks, to the husband and wife for one-half of the relief provided the original check has not been issued or has been returned. Individuals related as husband and wife who were married during the year may elect to file a joint claim which shall include each spouse's income, rent constituting property taxes, and property taxes payable. The maximum dollar amount allowable for a joint claim shall not exceed the amount that one person could receive.

History: 1975 c 437 art 1 s 8; 1977 c 423 art 2 s 13; 1981 c 343 s 39; 1Sp1981 c 4 art 1 s 144; 1984 c 514 art 4 s 17

290A.09 PROOF OF CLAIM.

Every claimant shall supply to the department of revenue, in support of the claim, proof of eligibility under this chapter, including but not limited to amount of rent paid or property taxes accrued, name and address of owner or managing agent of property rented, changes in homestead, household membership, household income, size and nature of property claimed as a homestead.

Disabled persons filing claims shall submit proof of disability in the form and manner as the department may prescribe. The department may require examination and certification by the claimant's physician or by a physician designated by the department. The cost of any examination shall be borne by the claimant, unless the examination proves the disability, in which case the cost of the examination shall be borne by the department.

A determination of disability of a claimant by the social security administration under Title II or Title XVI of the Social Security Act shall constitute presumptive proof of disability.

History: 1975 c 437 art 1 s 9; 1Sp1981 c 4 art 1 s 145; 1984 c 514 art 4 s 17; 1986 c 444

290A.10 PROOF OF TAXES PAID.

Every claimant who files a claim for relief for property taxes payable shall include with the claim a property tax statement or a reproduction thereof in a form deemed satisfactory by the commissioner of revenue indicating that there are no delinquent property taxes on the homestead. Indication on the property tax statement from the county treasurer that there are no delinquent taxes on the homestead shall be sufficient proof. Taxes included in a confession of judgment under section 279.37 shall not constitute delinquent taxes as long as the claimant is current on the payments required to be made under section 279.37.

History: 1975 c 437 art 1 s 10; 1977 c 423 art 2 s 14; 1986 c 444

290A.11 OBJECTIONS TO CLAIMS.

Subdivision 1. Audit of claim. When on the audit of any claim filed under this chapter the department determines the amount thereof to have been incorrectly determined, the department shall redetermine the claim and notify the claimant of the redetermination and the reasons therefor. The redetermination shall be final unless appealed to the Minnesota tax court within 60 days of notice thereof. The redetermination under this subdivision and subdivision 1a 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.

Subd. 1a. Reduction in assessed value, redetermination of claims. If the commissioner is notified pursuant to section 375.192, subdivision 1, that a reduction in assessed value was granted and the claimant's property taxes were decreased, the department shall redetermine the claim and notify the claimant of the redetermination and the reasons therefor. The redetermination shall be final unless appealed to the Minnesota tax court within 60 days of notice thereof.

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.

Subd. 3. Excessive or negligent claim. If it is determined that a claim is excessive and was negligently prepared, ten percent of the corrected claim shall be disallowed. If the claim has been paid, the amount erroneously paid out plus penalty shall be recovered as provided in subdivision 2.

Subd. 4. Interest. Amounts to be repaid to the state shall bear interest at the rate specified in section 270.75 from the date the state paid the claim until the date of repayment by the claimant.

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: 1975 c 437 art 1 s 11; 1976 c 134 s 78; 1977 c 307 s 29; 1978 c 767 s 23; 1980 c 607 art 3 s 4; 1981 c 343 s 40,41; 1Sp1981 c 4 art 1 s 146; 1982 c 523 art 1 s 66; 1983 c 294 s 7; 1984 c 514 art 4 s 17; 1984 c 628 art 3 s 11; 1985 c 210 art 1 s 18,19

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

Subdivision 1. Authority to seek injunction. A civil action in the name of the state

of Minnesota may be commenced in the same manner and pursuant to the same authority as provided in section 290.521, subdivision 1, to enjoin any person who is a property tax refund return preparer doing business in this state from further engaging in any conduct described in subdivision 2 or from further acting as a property tax refund return preparer.

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 the preparer's eligibility to practice before the department of revenue, or otherwise misrepresented the preparer's 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.

Subd. 3. Property tax refund return preparer defined. For purposes of this section and section 290A.112, the term "property tax refund return preparer" shall have the same meaning as the term "income tax return preparer" as defined in section 290.521, subdivision 3, to the extent that the definition applies to the preparation of a claim for relief under this chapter.

History: 1982 c 523 art 31 s 3; 1983 c 15 s 30; 1985 c 248 s 49; 1986 c 444

290A.112 OVERSTATEMENT OF TAXPAYER'S CLAIM BY PROPERTY TAX REFUND RETURN PREPARER.

Subdivision 1. Willful overstatement of claim. If any part of an excessive claim with respect to any property tax refund return is due to a willful attempt in any manner to overstate the claim for relief allowed under this chapter by a person who is a property tax refund return preparer with respect to the return, the person shall pay to the commissioner a penalty of \$500 with respect to the return. The penalty under this section may not be assessed against the employer of a property tax refund return preparer unless the employer was actively involved in the willful attempt to overstate the claim for property tax refund. This penalty shall be considered to be an income tax liability and may be assessed at any time as provided in section 290.49, subdivision 6. In any proceeding involving the issue of whether or not a property tax refund return preparer has willfully attempted in any manner to overstate the property tax refund claim, the burden of proof in respect of the issue shall be upon the commissioner and the claim of the claimant may be disclosed to the property tax refund return preparer notwithstanding section 290A.17.

Subd. 2. Overstatement of claim defined. For purposes of this section, the term "overstatement of claim" means any overstatement of the net amount refundable with respect to any claim for property tax relief provided by this chapter. The determination of whether or not there is an overstatement of a claim shall be made without regard to any administrative or judicial action involving the claimant.

History: 1982 c 523 art 31 s 4; 1983 c 15 s 31

290A.12 APPEAL.

Any person aggrieved by the denial, in whole or in part, of relief claimed under this chapter, except when the denial is based upon late filing of a claim for relief, may appeal the denial to the Minnesota tax court by filing a petition with the tax court within 60 days after the denial, as provided in chapter 271.

History: 1975 c 437 art 1 s 12; 1976 c 134 s 78; 1977 c 307 s 29; 1978 c 767 s 24

290A.13 NO RELIEF ALLOWED IN CERTAIN CASES.

No claim for relief under this chapter shall be allowed if the commissioner determines that the claimant received title or tenancy to the homestead primarily for the purpose of receiving benefits under this chapter and not for bona fide residence purposes.

History: 1975 c 437 art 1 s 13; 1Sp1981 c 4 art 1 s 147; 1984 c 514 art 4 s 17; 1986 c 444

290A.14 PROPERTY TAX STATEMENT.

The county treasurer shall prepare and send a sufficient number of copies of the property tax statement to the owner, and to the owner's escrow agent if the taxes are paid via an escrow account, to enable the owner to comply with the filing requirements of this chapter and to retain one copy as a record. The property tax statement, in a form prescribed by the commissioner, shall indicate the manner in which the claimant may claim relief from the state and the amount of the tax for which the applicant may claim relief. The statement shall also indicate if there are delinquent property taxes on the property in the preceding year. Taxes included in a confession of judgment under section 279.37 shall not constitute delinquent taxes as long as the claimant is current on the payments required to be made under section 279.37.

History: 1975 c 437 art 1 s 14; 1976 c 334 s 17; 1977 c 423 art 2 s 15; 1986 c 444

290A.15 CLAIM APPLIED AGAINST OUTSTANDING LIABILITY.

The amount of any claim otherwise payable under this chapter may be applied by the commissioner against any delinquent tax liability of the claimant or spouse of the claimant payable to the department of revenue.

History: 1975 c 437 art 1 s 15; 1Sp1981 c 4 art 1 s 148; 1984 c 514 art 4 s 17

290A.16 [Repealed, 1984 c 514 art 4 s 18]**290A.17 PUBLISHING OR RELEASING INFORMATION ON CLAIMS.**

The provisions of section 290.61 relating to the confidential nature of income tax returns shall be applicable to claims filed pursuant to the provisions of chapter 290A. When it is necessary to adjust or audit a claim that is required to include or recognize the income of another person, or information furnished by that person, the commissioner is authorized to disclose the income and other information of all people involved, to each person involved, so that a proper claim may be allowed.

Nothing herein shall be construed to prohibit the commissioner from publishing or releasing the information concerning amounts of property tax accrued and the relief granted to taxpayers without including information which would identify individual taxpayers. The commissioner may examine income tax returns as the commissioner deems necessary and may utilize the information in legal and administrative proceedings to insure proper administration of this chapter, notwithstanding section 290.61.

History: 1975 c 437 art 1 s 17; 1977 c 387 s 3; 1980 c 607 art 3 s 5; 1Sp1981 c 4 art 1 s 150; 1984 c 514 art 4 s 17; 1986 c 444

290A.18 RIGHT TO FILE CLAIM.

If a person entitled to relief under this chapter dies prior to receiving relief, the surviving spouse or dependent of the person shall be entitled to file the claim and receive relief. If there is no surviving spouse or dependent, the right to the credit shall lapse.

History: 1975 c 437 art 1 s 18; 1977 c 423 art 2 s 16; 1980 c 607 art 3 s 6; 1983 c 342 art 4 s 14; 1984 c 514 art 4 s 17

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 has the option to either provide the certificate to the renter at the time of moving, 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 of moving, 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 1/12 for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 1 l, 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: 1975 c 437 art 1 s 19; 1977 c 423 art 2 s 17; 1980 c 607 art 3 s 7; 1981 c 104 s 1; 1983 c 289 s 115 subd 1; 1983 c 342 art 4 s 15; 1984 c 595 s 8; 1985 c 210 art 1 s 20; 1Sp1985 c 14 art 5 s 6; 1986 c 444

290A.20 RULES.

The commissioner shall promulgate rules which the commissioner deems appropriate for the administration of this chapter and shall also make available forms with instructions for claimants as the commissioner deems necessary for the proper administration of this chapter. The claim shall be in the form the commissioner may prescribe.

History: 1975 c 437 art 1 s 20; 1Sp1981 c 4 art 1 s 151; 1984 c 514 art 4 s 17; 1985 c 248 s 70; 1986 c 444

290A.21 [Repealed, 1977 c 423 art 2 s 20]**290A.22 SUPPLEMENTAL HOUSING ALLOWANCE FOR AFDC RECIPIENTS.**

Recipients of the aid to families with dependent children program who receive a supplemental housing allowance under section 256.879 are not eligible for the tax credit set forth under this chapter. The commissioner of revenue shall assist the commissioner of human services in the administration of the supplemental housing allowance, and shall provide the commissioner of human services with such records and information as are necessary to administer the housing allowance.

History: 1976 c 334 s 18; 1Sp1981 c 4 art 1 s 152; 1984 c 514 art 4 s 17; 1984 c 654 art 5 s 58

MINNESOTA STATUTES 1986

5817

PROPERTY TAX REFUND ACT 290A.23

290A.23 APPROPRIATION.

There is appropriated from the general fund in the state treasury to the commissioner of revenue the amount necessary to make the payments required by this chapter.

History: 1977 c 423 art 2 s 18