CHAPTER 8006
DEPARTMENT OF REVENUE
INCOME TAX DIVISION
TAX CREDITS

8006.0100 MINNESOTA GASOLINE TAX REFUNDS AND CREDITS.

Subpart 1. **In general.** The amount paid by a taxpayer-claimant during the taxable year as tax on gasoline (including gasohol) or special fuel may be credited against any income or excise tax due under Minnesota Statutes, chapter 290 to the extent that the gasoline was bought and used for a purpose other than use in motor vehicles or snowmobiles and to the extent that the special fuel was bought and used for a purpose other than use in licensed motor vehicles. The tax on aviation gasoline and on special fuel for aircraft cannot be used as a credit. If the credit for the amount paid as tax on gasoline or special fuel exceeds the tax due under Minnesota Statutes, chapter 290, the excess shall be refunded to the taxpayer-claimant.

A credit or refund may be claimed only for the amount paid as the Minnesota-imposed tax on gasoline or special fuel. No credit or refund may be claimed solely on the basis that the Minnesota tax was paid on gasoline or special fuel subsequently used outside Minnesota; that is, if no credit or refund of the Minnesota tax would be allowable with respect to a particular use of gasoline or special fuel inside Minnesota, then no credit or refund of the Minnesota tax will be allowable with respect to that particular use of gasoline or special fuel outside Minnesota.

Subp. 2. **Individuals.** Every individual taxpayer-claimant seeking this credit or refund must file a Minnesota individual income tax return, together with a properly completed gasoline tax credit form to be furnished by the commissioner. However, individuals classified as exempt from income tax under Minnesota Statutes, section 290.05, subdivision 1, need only file the properly completed gasoline tax credit form in order to claim a refund.

Subp. 3. **Trusts and estates.** Every trust and every estate seeking this credit or refund must file a Minnesota fiduciary income tax return, together with a properly completed gasoline tax credit form to be furnished by the commissioner. However, trusts and estates classified as exempt from income tax under Minnesota Statutes, section 290.05, subdivision 1, need only file the properly completed gasoline tax credit form in order to claim a refund.

Subp. 4. **Corporations.** Every corporation seeking this credit or refund must file a Minnesota corporate income tax return, together with a properly completed gasoline tax credit form to be furnished by the commissioner. However, corporations classified as exempt from income and excise taxes under Minnesota Statutes, section 290.05, subdivision 1, need only file the properly completed gasoline tax credit form in order to claim a refund.

Subp. 5. **Information required.** The gasoline tax credit form shall contain all of the following information:

A. the claimant's name, address, and Minnesota tax identification number or social security number, whichever is applicable;

B. if the claimant is exempt from income and excise taxes under Minnesota Statutes, section 290.05, subdivision 1, the signature of the claimant or the signature and title of the claimant's duly authorized representative, whichever is applicable;

C. the preparer's signature, address, and Minnesota tax identification number or social security number, whichever is applicable;

D. a description of the use or uses made of the gasoline, gasohol, and special fuel on which this claim is based;

E. dates of purchase and total gallonage of Minnesota gasohol used in boats. For purposes of this item and of item G, the words "Minnesota gasohol" shall mean gasohol in which the alcohol contained therein has been distilled in Minnesota from agricultural products produced in Minnesota;

F. dates of purchase and total gallonage of gasoline and non-Minnesota gasohol used in boats. For purposes of this item and of item H, the words "non-Minnesota gasohol" shall mean any gasohol which does not fall within the definition of "Minnesota gasohol" as set forth in item E;

G. dates of purchase and total gallonage of Minnesota gasohol used for a purpose for which a credit or refund is allowable under subpart 1, other than boat use; and

H. dates of purchase and total gallonage of gasoline, non-Minnesota gasohol, and special fuel used for a purpose for which a credit or refund is allowable under subpart 1, other than boat use.

Subp. 6. **Information returns.** Information returns filed by partnerships and by qualifying electing small business corporations (qualifying Subchapter S corporations) must include the names and addresses of all partners or all shareholders entitled to a distributive share of the Minnesota gasoline tax credit and the amount of such distributive share to which each is entitled.

Subp. 7. **Filing requirements.** A claim for credit or refund of the Minnesota tax on gasoline or special fuel shall be filed only once per calendar or fiscal year. The due date for filing such a claim shall be the same as the due date specified in Minnesota Statutes, section 290.42 for filing an income or excise tax return. For purposes of determining the due date for filing a claim, cities, counties, school districts, and other organizations classified as exempt from income and excise taxes under Minnesota Statutes, section 290.05, subdivision 1 shall be treated as if they were corporations.

Subp. 8. **Applicability.** All of the provisions contained in Minnesota Statutes, chapter 290 are applicable to claims filed for purposes of securing a credit or refund of the Minnesota tax on gasoline or special fuel, including but not limited to, provisions governing the statute of limitations on allowable claims and provisions setting forth the penalties to be invoked for filing false claims.

Subp. 9. **Motor vehicle with a power take-off.** As used in this rule, the words "motor vehicle with a power take-off" mean any motor vehicle or licensed motor vehicle whose motor is used for the dual purpose of propelling the vehicle and the operation of special equipment by means of a power take-off.

No refund or credit is allowable with respect to the tax paid on gasoline or special fuel used in a motor vehicle with a power take-off which can be operated while the vehicle is being propelled on the public highways unless such vehicle is equipped with an automatic metering device approved by the commissioner which accurately measures the amount of fuel which is consumed when the vehicle is stationary and not being propelled on the public highways.

A refund or credit is allowable with respect to the tax paid on gasoline or special fuel used in a motor vehicle with a power take-off if the vehicle has two separate fuel supply tanks, one for use when the special equipment is being operated and the other when the vehicle is being propelled on the public highways, and if the use of the fuel from the appropriate supply tank is automatically controlled.

A refund or credit is allowable with respect to the tax paid on gasoline or special fuel used in a motor vehicle with a power take-off provided that such claim is supported by complete and detailed records that will clearly and accurately establish the amount of gasoline or special fuel used for purposes other than propelling the vehicle on the public highways or provided such vehicle is equipped with an automatic metering device approved by the commissioner. Such records shall include, but not be limited to, all of the following information which is applicable to the claimant's situation: type of operation, dates of operation, name of customer, miles traveled, hours of operation of special equipment, age of equipment, and results of tests determining engine performance during highway and power take-off operations. The use of separate fuel tanks and/or hubometers are not sufficient in themselves to qualify as complete and accurate records. Estimates of the amount of fuel used, regardless of how reasonable they may be, are not acceptable.

Subp. 10. **Off-public-highway use.** If a motor vehicle or a licensed motor vehicle is used entirely off the public highways, a refund or credit of the tax paid on gasoline or special fuel is allowable.

If a motor vehicle or a licensed motor vehicle is used both on and off the public highways, a refund or credit of the tax paid on gasoline or special fuel used for purposes other than propelling the vehicle on the public highways is allowable provided such claim is supported by complete and detailed records that will clearly and accurately establish such amounts of fuel. Such records shall include, but not be limited to, all of the following information which is applicable to the claimant's situation: type of operation, dates of operation, miles traveled on public highways, miles traveled on private roads, hours of travel off the public highways, age of equipment, and results of tests determining engine performance during off-highway use. Estimates of such amounts, regardless of how reasonable they may be, are not acceptable.

Subp. 11. **Gasoline or special fuel lost by accident.** No refund or credit is allowable with respect to the tax paid on gasoline or special fuel which is lost through spillage or accident except while in the possession of a distributor or dealer.

Subp. 12. **Gasoline not used by claimant.** No refund or credit is allowable with respect to the tax paid on gasoline which has not been purchased and used by the claimant.

Subp. 13. **Gasoline or special fuel used by state.** No refund is allowable with respect to the tax paid on gasoline used in motor vehicles or special fuel used in licensed motor vehicles owned by the state of Minnesota, including any of its municipalities and school districts, if such motor vehicles or licensed motor vehicles are used on the public highways.

Statutory Authority: *MS s 290.52; 296.27*

8006.0200 ENERGY CREDIT.

Subpart 1. **Residence.** For purposes of this credit, a building or dwelling unit must be the taxpayer's principal residence. The term "principal residence" is defined as that residence which would qualify for the nonrecognition of gain on the sale and the rollover of that gain when a new principal residence is purchased except that no ownership requirement is imposed. The period for which a building or a dwelling unit is treated as the principal residence of the taxpayer includes the 30-day period ending on the first day on which it would (but for this sentence) be treated as the taxpayer's principal residence. The term "building" includes a single-family dwelling, duplex, condominium unit, townhouse, cooperative unit, and any other residential building containing six dwelling units or less. A condominium unit, a townhouse, or a cooperative unit which is used by a taxpayer as his principal residence will each qualify separately for purposes of this credit regardless of how many units are in the building. A

taxpayer who buys or rents a residential unit in a condominium, townhouse, or a cooperative need only buy or rent that unit and not the entire physical structure to qualify for this credit.

Individuals who rent a dwelling unit as their residence can claim this credit. The dwelling unit, except in the case of the rental of a condominium, townhouse, or cooperative unit, must be located in a building that contains six dwelling units or less.

If less than 80 percent of the use of a building or dwelling unit is for use as the taxpayer's principal residence, only that portion of the expenditures for that building or dwelling unit which is properly allocable for use as the taxpayer's principal residence shall be taken into account. A swimming pool shall be treated as a use which is not for residential purposes. These provisions on residence do not apply to biomass conversion equipment.

Subp. 2. **Purchase requirement.** A taxpayer must actually purchase the equipment or earth-sheltered dwelling to qualify for this credit. The expenses connected with the leasing of equipment or the leasing of an earth-sheltered dwelling do not qualify for this credit. If the taxpayer received a refund from the seller or the manufacturer of equipment on which the taxpayer claimed this credit, the amount of expenditures that were allowable for this credit must be reduced by the amount of the refund that was received. The taxpayer will need to file an amended income tax return if the refund that was received would require a reduction in the energy credit which had already been claimed. A payment received by the taxpayer from the seller or the manufacturer of equipment is considered as a payment for services rendered when the payment was for field testing of the system by the taxpayer or for reports on the system that the taxpayer completed. A payment for services rendered must be included in the gross income of the taxpayer and does not reduce the amount of expenditures allowable for this credit. Expenditures will qualify even though they are paid for as the result of a federal, state, or local government grant, but only to the extent that the grant was included in federal adjusted gross income. Each dollar of expenditure which qualifies for this credit may be used only one time for purposes of computing this credit.

Subp. 3. **Credit for contractors.** A contractor can receive this credit on a building that he has constructed if he is the first individual to use the building or dwelling unit as his principal residence.

Subp. 4. **Maximum expenditures.** For purposes of this credit, a taxpayer is entitled to use only the first $10,000 of renewable energy source expenditures. The $10,000 of expenditures to which the taxpayer is entitled includes the expenditures that he personally made, and the proportionate share of expenditures to which he is entitled as a partner in a partnership, as a shareholder in a subchapter S corporation, as a tenant shareholder in a cooperative housing corporation, as a member of a condominium management association, or as a shareholder in a family farm corporation. No taxpayer shall be allowed to claim a total amount of more than $2,000 in total energy credits for all years.

Subp. 5. **Effect on basis.** The increase in the basis of property because of expenditures which qualify for this credit shall be reduced by the amount of the energy credit that was claimed for that property.

Subp. 6. **Family farm corporations and partnerships.** A shareholder in a family farm corporation is allowed to claim this credit for any of the expenditures that qualify for this credit. A family farm partnership will be treated as an individual taxpayer, and expenditures that qualify for the energy credit which are made by the family farm partnership may be claimed by the family farm partners as joint owners. A partnership, which is not a family farm partnership, will not be treated as an individual taxpayer.

A shareholder of a family farm corporation is allowed to claim this credit in the same manner as a joint owner of property that otherwise qualified for the credit. All joint owners will be treated as one taxpayer (and so qualify for only one $2,000 energy credit) with the same taxable year. Each joint owner will be allowed, with respect to the expenditures, a credit for that taxable year in an amount, which bears the same ratio to the total amount allowable, as the amount of the expenditures made by the joint owner during the taxable year bears to the aggregate of the expenditures made by all joint owners during the taxable year. However, joint owners who make expenditures with respect to two or more principal residences shall compute the amount of their energy credit separately based on the amount of the expenditure made by each joint owner. If a subchapter S or a family farm corporation makes the expenditure, the expenditure may be divided among the shareholders based on the percentage of their stock ownership in the corporation.

Subp. 7. **Report to Department of Energy and Economic Development.** The Department of Revenue, upon the written request of a taxpayer, shall furnish the Department of Energy and Economic Development with a copy of the energy credit form that has been completed by the taxpayer so that the taxpayer and the Department of Revenue may receive technical advice and assistance from the Department of Energy and Economic Development and so that the Department of Energy and Economic Development may compile information on the use of this credit.

Subp. 8. **Application of credits.** The energy credit, pollution control credit, and feedlot pollution control credit shall be applied after all other nonrefundable credits. If the expenditures otherwise qualify, the taxpayer may elect which credit (including the carry-forward) will be used. This election may be amended at any time before the expiration of the statute of limitations. If an expenditure otherwise qualifies, the taxpayer may claim both the energy credit and the feedlot pollution control credit or pollution control credit on that property, but the energy credit must be used first and the expenditures allowable for the feedlot pollution control credit or pollution control credit must be reduced by the expenditures that have been used for the energy credit. The taxpayer may elect to carry forward the amount of the energy credit, pollution control credit and feedlot pollution credit when the taxpayer's tax liability is computed by using the low income alternative tax.

Subp. 9. **Definition of R- and U-values.** As used in this rule, the term "R-value" is the measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Fahrenheit at 75 degrees Fahrenheit mean temperature. The term "U-value" is the thermal transmission of heat in unit time through unit area of a particular body or assembly, including its boundary films divided by the difference between the environmental temperatures on either side of the body or assembly; ($Btu/Hr \cdot Ft^2 \cdot F^o$). Also the reciprocal of total R-value.

Subp. 10. **Piggybacked federal renewable energy source credit.** Any expenditure that qualifies for the federal renewable energy source credit, including expenditures for labor costs, geothermal energy, wind energy for electricity, renewable energy used to heat water, and any other expenditures which are allowable for the federal credit, would also be allowable for purposes of the state piggybacked credit provided that the building is located in Minnesota and does not contain more than six dwelling units. After December 31, 1980, any active solar collector which qualifies for the federal renewable energy source credit must also be certified by the Department of Energy and Economic Development before it will qualify for the state piggybacked federal renewable energy source credit. Expenditures that are allowable are only those that were allowable on the date that the legislature has specified in Minnesota Statutes,

section 290.06, subdivision 14 for purposes of adopting the federal credit provisions. No solar panel installed as a roof (or portion thereof) shall fail to qualify for the piggybacked federal renewable energy source credit solely because it constitutes a structural component of the dwelling on which it is installed. If an expenditure qualifies for both the federal energy conservation credit and for the federal renewable energy source credit and the taxpayer used the expenditure for the federal conservation credit, the taxpayer can use that expenditure for the state piggybacked federal renewable energy source credit provided that the expenditure otherwise qualifies.

Subp. 11. **Earth-sheltered dwelling units.** Expenditures that qualify for the credit for earth-sheltered dwellings include material, labor, and other construction costs (except interest) incurred to construct the dwelling. The structure of the earth-sheltered dwelling unit must meet the standards of the Minnesota building code even though the code may not be in effect in that area. The earth-sheltered dwelling unit's structure must also comply with all three tests which are contained in Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clauses (1) to (3) and which are as follows:

"(1) 80 percent or more of the roof area is covered with a minimum depth of 12 inches of earth; and

(2) 50 percent or more of the wall area is covered with a minimum depth of 12 inches of earth; and

(3) those portions of the structure not insulated with a minimum of seven feet of earth shall have additional insulation...."

The roof area contained in Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clause (1) that must be covered with earth means that area of the roof that is above the area used for residential living which is heated. The roof area that must be covered with earth does not include the roof area for a garage, unless the garage is heated. For Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clause (2) the term "wall" means the exterior walls of the residential living area. The walls of a garage are not included in this definition. If a garage is attached to the exterior walls at the residential living area, that area of the exterior wall of the residential living area that is part of the attached garage is not counted in the area of the wall that must be covered with earth. The wall must be covered with a minimum horizontal depth of 12 inches (30 cm) of earth. The term "structure" contained in Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clause (3) means the exterior walls and roof as defined for Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clauses (1) and (2). In Minnesota Statutes, section 290.06, subdivision 14, paragraph (b), clause (3) the additional insulation that will be required is the amount of insulation that is needed to equal the following requirements:

A. All of the components of the wall below grade to seven vertical feet (2.1 m) below grade must have at least a combined minimum R-value of 11.50 $F^{\circ} \cdot Hr \cdot Ft^2/Btu$ (2.03 $m^2 \cdot K/W$), not including the thermal resistance of the earth. Insulation below grade which extends out from the wall may be included in the combined R-value.

B. The wall which is above grade and which is not covered with a minimum of seven horizontal feet (2.1 m) of earth and which is not part of a collection aperture of a passive solar system, as defined in subpart 3, item B, must meet the following criteria:

(1) The opaque wall area may not exceed a maximum U-value of 0.0555 $Btu/Hr \cdot Ft^2F^{\circ}$ (0.315 W/m^2K).

(2) The glazing area must not exceed a maximum U-value of 0.47 $Btu/Hr \cdot Ft^2 \cdot F^{\circ}$ (2.7 W/m^2K) and must not exceed a maximum area which is more than 10 percent of the floor area of the room in which it is installed. The

maximum glazing area for a room shall be reduced by the amount of collection aperture glazing, as defined in subpart 3, item B, installed in that room. Glass doors shall be considered as glazing area.

(3) The doors must not exceed a maximum U-value of 0.40 Btu/Hr·Ft^2·F^o (2.3 W/m^2·K).

C. Roof/ceiling:

(1) A roof/ceiling which is covered with less than seven vertical feet (2.1 m) but with 12 vertical inches (30 cm) or more of earth may not exceed a maximum U-value of 0.045 Btu/Hr·Ft^2·F^o (0.25 W/m^2·K), not including the thermal resistance of the earth.

(2) A roof/ceiling which is covered with less than 12 vertical inches (30 cm) of earth may not exceed a maximum U-value of 0.027 Btu/Hr·Ft^2·F^o (0.15 W/m^2·K), not including the thermal resistance of the earth.

Subp. 12. **Biomass conversion equipment.** The term "biomass conversion equipment" means equipment which is located in Minnesota and which is:

A. Equipment for the production of gaseous fuels from biomass sources by biological or physical-chemical processes. To qualify for the credit, the gaseous energy produced shall sustain combustion, by itself, in air. Examples of the types of equipment that qualify for the credit are methane digestors, and destructive distillation equipment.

B. Equipment for the production of liquid fuels from biomass sources by biological or physical-chemical processes. To qualify for the credit, the liquid fuel produced shall sustain combustion, by itself, in air, and shall contain ethanol or methanol.

The gaseous energy or liquid fuels produced by the equipment shall not be sold or offered for sale.

The term "biomass sources" means wood, wood residues, agricultural crops, agricultural crop residues, other plant materials, human or animal manure, and food processing waste.

A taxpayer who is a corporation (including an electing small business corporation), a partnership, a trust, or an estate may claim the credit for biomass conversion equipment.

Subp. 13. **Passive solar energy system defined.** The term "passive solar energy system" means a system which utilizes the building or an attached building (such as a greenhouse) and its operable components to heat and cool the building or a portion thereof by utilizing the sun's energy by means of conduction, convection, radiation, or evaporation.

A system shall include collection aperture and storage element designed to store heat from solar radiation, and it may include control, distribution, or retention elements.

Only the cost of equipment, materials, and devices which are integral parts of a passive solar energy system and the actual cost of labor for system installation are eligible expenditures. Expenditures for equipment, materials, or devices which are a part of the conventional (nonrenewable energy) heating, cooling, or insulation system of the building are not eligible for the credit. The entire expenditure for each integral component and associated labor costs is eligible for the credit unless indicated below.

To qualify for the credit, a passive solar energy system must reasonably be expected to remain in operation for at least five years.

Subp. 14. **Collection aperture defined.** The term "collection aperture" means:

A. Double glazing material facing south, plus or minus 30 degrees, installed in exterior walls, and fully exposed to the sun for at least four hours on December 21, during which time the sun must pass through an imaginary vertical plane drawn perpendicular to the glazing. The area of glazing shall exceed the

lesser of 15 percent of the floor area of the room in which the glazing is installed or eight percent of the floor area of the habitable rooms within the dwelling unit. The entire expenditure for glazing shall qualify for the credit.

B. Double glazing material installed in a roof which is elevated at an angle of at least 45 degrees from horizontal and which faces the south, plus or minus 30 degrees. Such glazing shall be fully exposed to direct solar radiation for at least four hours on December 21. A taxpayer who has installed both a wall and a roof collection aperture may qualify.

Subp. 15. **Storage element defined.** The term "storage element" means thermal mass in the form of water, masonry, brick, rock, concrete, or other material with heat storage performance equivalent to or better than that of any of these forms of thermal mass. The thermal mass must be installed within the insulated shell of the building or attached building and it must be insulated from the earth by materials with at least an R-value of 6.5 F^{o}·Hr·Ft^2/Btu (1.1 m^2·K/W). The thermal mass must have a storage capacity of at least 15 Btu per degree Fahrenheit per square foot (300 kJ/K· m^2) of aperture area. The thermal mass shall be situated so that at least half of it is completely exposed to the sun's direct radiation for four hours on December 21. The exposed half of the thermal mass must not be shielded from direct solar radiation by hangings, rugs, carpet, furniture, etc. Thermal mass which is heated by forced convection can also qualify. An example would be that of a system in which a blower forces solar air from a collection area through a rock bed, when the rock bed has been insulated to prevent heat loss into the earth or outside air.

The entire amount of the expenditures and labor costs allocable to qualifying thermal mass will be allowed. Concrete slab floors uninsulated from the earth and swimming pools do not qualify as a storage element for purposes of this credit. Stone and masonry materials used in fireplace construction, which meet the above requirements for thermal mass, will qualify as a storage element. The flues and other mechanical devices of a fireplace do not qualify.

Subp. 16. **Control and distribution element defined.** The term "control and distribution element" means fans, exhausts, vents, dampers, sensors, controllers, air ducts, louvers, or other equipment when used exclusively to facilitate the distribution of solar heat.

Subp. 17. **Retention element defined.** The term "retention element" means movable insulation which is installed to reduce heat loss through the collection aperture of the passive solar energy system at night. All of the movable insulation installed on that collection aperture must have a combined R-value of at least 4 F °·Hr·Ft^2/Btu (0.7 m^2K/W). Awnings and overhangs shall not be considered retention elements.

Subp. 18. **Miscellaneous.** The commissioner of revenue will require drawings, photographs, or other descriptions of a passive solar energy system from any taxpayer claiming the credit for a passive solar energy system. The commissioner may consult with the commissioner of the Department of Energy and Economic Development to secure an evaluation of the drawings, photographs, or other descriptions to determine if the system qualifies for the energy credit.

A taxpayer who has installed or is planning to install a passive solar energy system which he or she feels may achieve passive solar energy performance better than a system designed according to the criteria contained in subparts 13 to 18 may request an advisory opinion by submitting an architectural drawing, a detailed operational description of the system and performance calculations to the commissioner of the Department of Energy and Economic Development. On the basis of this information, the commissioner may decide that the entire system and its integral components or some part thereof qualifies for the credit. The taxpayer shall furnish the Department of Revenue with a copy of the commissioner's opinion when claiming this credit.

The original use of the passive solar energy system must begin with the taxpayer who claims the credit. Expenses for normal maintenance on the passive solar energy system do not qualify for the credit. Replacement expenditures of a capital nature to replace all or part of the passive solar energy system do qualify for the energy credit provided that the taxpayer must add these expenditures to the other expenditures that he had already claimed for the energy credit. Those passive solar energy system expenditures which exceed a reasonable cost amount, which serve no additional passive solar function, or which serve a purely aesthetic function, shall not be allowed.

Statutory Authority: *MS s 290.06 subd 14; 290.52*

History: *L 1983 c 289 s 115 subd 1*