

## CHAPTER 290A

## INCOME-ADJUSTED HOMESTEAD CREDIT

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**290A.01 CITATION.** Sections 290A.01 to 290A.21 may be cited as the "State of Minnesota Income-Adjusted Homestead Credit Act."

[ 1975 c 437 art 1 s 1 ]

**290A.02 PURPOSE.** The purpose of sections 290A.01 to 290A.21 is to provide property tax relief to certain persons who own or rent their homesteads.

[ 1975 c 437 art 1 s 2 ]

**290A.03 DEFINITIONS.** Subdivision 1. **Generally.** The following words, terms, and phrases when used in sections 290A.01 to 290A.21 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.** "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1974, additions to federal adjusted gross income as provided in Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a)(1), (a)(2), (a)(3), (a)(4), (a)(8), and (a)(10), and all nontaxable income, including but not limited to the amount of recognized net long term capital gains excluded from adjusted gross income, cash public assistance and relief, the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, and veterans disability pensions), nontaxable interest received from the state or federal government or any instrumentality thereof, worker's compensation, unemployment benefits, nontaxable strike benefits, and the gross amount of "loss of time" insurance. 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. "Income" does not include gifts from nongovernmental sources, surplus food or other relief in kind supplied by a governmental agency, or relief granted under sections 273.012, subdivision 2 or 290A.01 to 290A.21.

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.

Subd. 6. **Homestead.** "Homestead" means the dwelling occupied by a claimant as a place of residence and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, except that this restriction shall not be applicable to agricultural land assessed as part of a homestead pursuant to section 273.13, subdivision 6. The homestead may be owned or rented and may be a part of a multi-dwelling or multi-purpose building and the land on which it is built. A mobile home, as defined in section 168.011, 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 his 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 his support from the claimant.

Subd. 8. **Claimant.** "Claimant" means a person who filed a claim authorized by sections 290A.01 to 290A.21 and who was domiciled in this state during the calendar year for which the claim for relief was filed. 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 are payable for not less than six months of the calendar year covered by the claim, except that a claimant who is disabled or who has attained the age of 65 on the date specified in section 290A.04, subdivision 1, may file a claim based on residence in a unit on which ad valorem taxes were not payable. In the case of a part year 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. Maximum credit allowed under this computation would be at a rate of one-twelfth of the maximum credit allowed pursuant to section 290A.04 per month of residency computed to the nearest full month. 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 and his decision shall be final.

If a homestead is occupied by two or more unrelated renters, 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 his 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 his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his 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 in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied 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 20 percent of the gross rent actually paid in cash, or its equivalent, in 1975 or any subsequent calendar year by a claimant solely 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 sections 290A.01 to 290A.21 by the claimant.

Subd. 12. **Gross rent.** "Gross rent" means rental paid solely for the right of occupancy, at arms-length, of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances 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 sections 290A.01 to 290A.21.

If the landlord does not supply the charges for any utilities, furniture, furnishings or personal property appliances furnished by him, or if the charges appear to be incor-

rect the commissioner may apply a percentage determined from samples of similar gross rents paid solely for the right of occupancy.

Any amount paid by a claimant residing in property assessed pursuant to section 273.133 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 pursuant to section 273.133 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 6 and 7, but after deductions made pursuant to sections 273.132 and 273.135, in 1976 or any calendar year thereafter. For homesteads which are mobile homes as defined in section 168.011, subdivision 8, "property taxes payable" shall also include 20 percent of gross rent paid in the preceding year for the site on which the homestead is located, exclusive of charges for utilities or services. When a homestead is owned by two or more persons as joint tenants or tenants in common, "property taxes payable" is that part of the property taxes payable on the homestead as reflects the percentage of ownership of the claimant and spouse. 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.

[ 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 ]

**290A.04 CREDIT ALLOWABLE.** Subdivision 1. A credit 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. The maximum credit for any claimant who was disabled on June 1 or who 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 shall be \$200 above the maximum for which that claimant would otherwise be eligible according to his income.

**Subd. 2.** The credit shall be paid to claimants whose property taxes payable exceed the following percentages of their income, up to the designated maximum credit amounts:

For claimants earning:

\$ 0 to \$ 2,499,	1.0 percent, up to \$475;
2,500 to 19,999,	1.5 percent, up to \$475;
20,000 to 22,999,	1.6 percent, up to \$475;
23,000 to 25,999,	1.8 percent, up to \$425;
26,000 to 30,999,	2.0 percent, up to \$375;
31,000 to 35,999,	2.2 percent, up to \$350;
36,000 to 40,999,	2.4 percent, up to \$325;
41,000 to 44,999,	2.6 percent, up to \$325;
45,000 to 52,999,	2.8 percent, up to \$325;
53,000 to 65,999,	3.0 percent, up to \$325;
66,000 to 81,999,	3.2 percent, up to \$325;
82,000 to 99,999,	3.5 percent, up to \$325;
100,000 and over,	4.0 percent, up to \$325;

provided that maximum credits for incomes above \$20,000 decline according to the following schedule:

between \$20,000 and \$26,000 decline \$16.67 per \$1,000; between \$26,000 and \$36,000 decline \$5 per \$1,000.

In the case of a claimant who was disabled on June 1 or who attained the age of 65 on the date specified in subdivision 1, the credit shall not be less than the credit which the claimant's household income as defined in section 290A.03 and property tax or rent constituting property tax would have entitled him to receive under Minnesota Statutes 1974, Section 290.0618.

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The credit shall be the amount calculated pursuant to this subdivision, but not exceeding \$675, less the homestead credit given pursuant to section 273.13, subdivisions 6 and 7.

Subd. 3. The commissioner of revenue shall construct and make available to taxpayers a comprehensive table showing the property taxes to be paid and credit 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.

For homestead property owners who are disabled or are 65 or older, as provided in subdivision 1, the commissioner shall base his determination of the credit on the gross qualifying tax reduced by the average statewide effective homestead credit percentage for taxes payable in 1975 calculated under section 273.13, subdivisions 6 and 7.

[ 1975 c 437 art 1 s 4; 1976 c 245 s 3,4 ]

**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 dependent children, 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 credit 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 dependent children, 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.

[ 1975 c 437 art 1 s 5 ]

**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 31 of the year in which the property taxes are due and payable. 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. In any event no claim shall be allowed if the claim is filed two years after the original due date for filing the claim.

[ 1975 c 437 art 1 s 6; 1976 c 334 s 16 ]

**290A.07 TIME FOR PAYMENT.** Subdivision 1. Allowable claims filed pursuant to the provisions of Laws 1975, Chapter 437, Article 1 shall be paid by the commissioner from the general fund.

Subd. 2. A claimant who is a renter or who had attained the age of 65 or had been disabled prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid shall receive full payment no later than 60 days after receipt of the application or may elect to take as a credit against his income tax the full amount.

Subd. 3. Any claimant not included in subdivision 2 shall receive full payment after September 30 and prior to October 15.

Subd. 4. Claims remaining unpaid 60 days after the dates provided in subdivisions 2 and 3, shall have interest added at six percent per annum from the later date until the date the claim is paid.

[ 1975 c 437 art 1 s 7 ]

**290A.08 ONE CLAIMANT PER HOUSEHOLD.** Only one claimant per household per year is entitled to relief under sections 290A.01 to 290A.21.

[ 1975 c 437 art 1 s 8 ]

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**290A.09 PROOF OF CLAIM.** Every claimant shall supply to the department of revenue, in support of his claim, proof of eligibility under sections 290A.01 to 290A.21, 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.

[ 1975 c 437 art 1 s 9 ]

**290A.10 PROOF OF TAXES PAID.** Every claimant who files a claim for relief for property taxes payable shall include with his claim a property tax statement 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.

[ 1975 c 437 art 1 s 10 ]

**290A.11 OBJECTIONS TO CLAIMS.** Subdivision 1. **Audit of claim.** When on the audit of any claim filed under sections 290A.01 to 290A.21 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 of appeals within 30 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 of six percent per annum. The claimant, and any person who assisted in the preparation of filing of the excessive claim or supplied information upon which the excessive claim was prepared, with fraudulent intent, is guilty of a misdemeanor.

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 six percent per annum from the date the state paid the claim until the date of repayment by the claimant.

[ 1975 c 437 art 1 s 11; 1976 c 134 s 78 ]

**290A.12 APPEAL.** Any person aggrieved by the denial, in whole or in part, of relief claimed under Laws 1975, Chapter 437, Article 1, except when the denial is based upon late filing of a claim for relief, may appeal the denial to the Minnesota tax court of appeals by filing a petition with the tax court of appeals within 30 days after the denial, as provided in chapter 271.

[ 1975 c 437 art 1 s 12; 1976 c 134 s 78 ]

**290A.13 NO RELIEF ALLOWED IN CERTAIN CASES.** No claim for relief under sections 290A.01 to 290A.21 shall be allowed if the commissioner determines that the claimant received title or tenancy to his homestead primarily for the purpose of receiving benefits under sections 290A.01 to 290A.21 and not for bona fide residence purposes.

[ 1975 c 437 art 1 s 13 ]

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**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 his escrow agent if the taxes are paid via an escrow account, to enable him to comply with the filing requirements of Laws 1975, Chapter 437, Article 1 and to retain one copy for his records. 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.

[ 1975 c 437 art 1 s 14; 1976 c 334 s 17 ]

**290A.15 CLAIM APPLIED AGAINST OUTSTANDING LIABILITY.** The amount of any claim otherwise payable under sections 290A.01 to 290A.21 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.

[ 1975 c 437 art 1 s 15 ]

**290A.16 INCOME TAX DEDUCTION PROHIBITED.** Notwithstanding section 290.09, subdivision 4, the income tax deduction for property taxes paid shall not exceed the amount paid, reduced by the amount of credit allowed with respect to the tax pursuant to sections 290A.01 to 290A.21.

[ 1975 c 437 art 1 s 16 ]

**290A.17 PUBLICITY OF CLAIMS.** It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known any particulars disclosed in any claim filed pursuant to sections 290A.01 to 290A.21. The provisions of section 290.61 relating to the confidential nature of income tax returns shall also be applicable to claims thus filed.

Nothing herein shall be construed to prohibit the commissioner from making public 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 he deems necessary and may utilize the information in legal and administrative proceedings to insure proper administration of sections 290A.01 to 290A.21, notwithstanding section 290.61.

[ 1975 c 437 art 1 s 17 ]

**290A.18 RIGHT TO FILE CLAIM.** If a claimant entitled to relief under sections 290A.01 to 290A.21 dies prior to receiving relief, the surviving spouse or dependent child of the claimant shall be entitled to receive it. If there is no surviving spouse or dependent child, the right to the credit shall lapse.

[ 1975 c 437 art 1 s 18 ]

**290A.19 LANDLORD TO FURNISH RENT CERTIFICATE; PENALTY.** The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent paid to each renter in the form prescribed by the commissioner. The certificate shall be made available to the renter not later than February 15 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.

[ 1975 c 437 art 1 s 19 ]

**290A.20 RULES AND REGULATIONS.** The commissioner shall promulgate rules and regulations which he deems appropriate for the administration of sections 290A.01 to 290A.21. He shall also make available forms with instructions for claimants as he deems necessary for the proper administration of sections 290A.01 to 290A.21. The claim shall be in the form the commissioner may prescribe.

[ 1975 c 437 art 1 s 20 ]

**290A.21 EXCLUSIVE RELIEF.** Sections 290.981 to 290.992, 290.0601 to 290.0616, and 290.0618 shall not be effective with respect to any rent paid after December 31, 1974 or property taxes payable after December 31, 1975.

[ 1975 c 437 art 1 s 21 ]

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**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 sections 290A.01 to 290A.21. The commissioner of revenue shall assist the commissioner of public welfare in the administration of the supplemental housing allowance, and shall provide the commissioner of public welfare with such records and information as are necessary to administer the housing allowance.

[ 1976 c 334 s 18 ]