Elderly Homeowner and Renter Credit Overview
Prepared for the Revenue and Transportation Interim Committee
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The elderly homeowner and renter credit is an income tax credit based on property taxes paid. Elderly citizens who pay property taxes indirectly through rent are also eligible for the credit. An elderly citizen who wishes to claim the credit pays property taxes as usual to the county treasurer or as a component of rent payments and files for the credit along with the income tax filing.

The credit was originally enacted by the 1981 Legislature and became available to taxpayers for the 1981 income tax year. The credit is contained in sections 15-30-2337 through 15-30-2341, MCA.

General Eligibility

Section 15-30-2338 contains the eligibility requirements for the credit. The claimant must:

- have reached age 62 or older during the claim period;
- have resided in Montana for at least 9 months of the claim period;
- have occupied one or more dwellings as an owner, renter, or lessee for at least 6 months; and
- have less than $45,000 in gross household income.

Claiming the Credit

An individual claims the credit by filing a claim with the individual income tax return. If an individual income tax return is not required to be filed, the claim is due April 15 of the year following the year in which the credit is claimed. The claim must include a receipt showing property tax billed or gross rent paid. If a claimant dies before filing a claim, a representative of the estate may file the claim.

A claimant or the Department of Revenue may revise a return or make a claim within 3 years from the last day for filing a claim.

Limitations on the Credit

The following limitations are placed on the credit and contained in section 15-30-2341:

- only one claimant per household. Administrative Rule 42.4.302 also provides that married taxpayers living apart may claim the credit for only one address.
- a claim is not allowed for property taxes or rent paid with a public rent or tax subsidy program; and
- a claim is not allowed for property not subject to property taxes except for dwellings rented from a county or municipal housing authority.

Calculating the Credit

There are two main components necessary for calculating the credit: *household income* and *property tax billed* or *rent-equivalent tax paid*. (*Italics* are used in this section to denote terms defined in section 15-30-2337)

Household Income

The definition of *household income* is based on the definitions of *income* and *gross household income*. *Income* is federal adjusted gross income without regard to loss plus all nontaxable income. The definition gives examples of nontaxable income, which include a pension or annuity, cash public assistance, and capital gains excluded from adjusted gross income.

Gross household income is all *income* received by all individuals of a *household* while they are members of the household. A *household* is an association of persons who live in the same dwelling and share its furnishings, facilities, accommodations, and expenses but does not include bona fide lessees, tenants, or roomers or boarders on contract. Finally, *household income* is *gross household income* minus $6,300.

The following are simplified versions of the definitions expressed as equations for quick reference:

Income = federal adjusted gross income without regard to loss + nontaxable income
Gross household income = *income* received by all members of the *household*
Household income = *gross household income* - $6,300

Property Tax Billed or Rent-Equivalent Tax Paid

Property tax billed is taxes levied against the *homestead*, including special assessments and fees but excluding penalties or interest. A *homestead* is a single-family dwelling unit or unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land not in excess of 1 acre as is reasonably necessary for use as a dwelling or a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority.

Rent-equivalent tax paid is 15% of *gross rent*. *Gross rent* is the total rent in cash or its equivalent actually paid during the claim period by the renter for the right of occupancy of the homestead pursuant to an arm's-length transaction with the landlord.

Determining the Credit Amount

For those with *household income* of $2,000 or more, the credit amount is for all or part of *property taxes billed* or *rent-equivalent taxes paid* in excess of a certain percentage of *household income*. The percentage varies from 0.6% to 5%. Claimants with $1,999 or less in *household income* are eligible for a credit for the full amount of *property taxes billed* or *rent-equivalent taxes paid*. The following table, contained in section 15-30-2340, shows the reduction amounts:

Household income	Amount of reduction
$0 - $999	$0
$1,000 - $1,999	$0
$2,000 - $2,999	the product of .006 times household income
$3,000 - $3,999	the product of .016 times household income
$4,000 - $4,999	the product of .024 times household income
$5,000 - $5,999	the product of .028 times household income
$6,000 - $6,999	the product of .032 times household income
$7,000 - $7,999	the product of .035 times household income
$8,000 - $8,999	the product of .039 times household income
$9,000 - $9,999	the product of .042 times household income
$10,000 - $10,999	the product of .045 times household income
$11,000 - $11,999	the product of .048 times household income
$12,000 & over	the product of .050 times household income

For those with less than $35,000 in *gross household income*, the credit is calculated as follows:

property taxes billed or *rent-equivalent taxes paid* - amount of reduction = credit*

The credit phases out for those with *gross household income* of $35,000 or greater. The credit is still based on *property taxes billed* in excess of 5% of *household income*. That figure is then multiplied by a percentage ranging from 40% to 10% and phases out completely at $45,000. The ranges are as follows:

Gross household income	Percentage of credit allowed
$35,000 - $37,500	40%
$37,501 - $40,000	30%
$40,001 - $42,500	20%
$42,501 - $44,999	10%
$45,000 ore more	0%

For those with *gross household income* between $35,000 and $44,999, the credit is calculated as follows:

(*property taxes billed* or *rent-equivalent taxes paid* - amount of reduction) x percentage of credit allowed = credit*

<u>*Credit Limit</u>
The credit is limited to $1,000 and may be refunded if the amount of the credit exceeds the claimant's income tax liability.

<u>Examples</u>
The following are examples of how the credit is calculated. The examples are meant to be realistic but there are myriad possible combinations of gross household income and property taxes or rent-equivalent tax paid.

Gross household income	$7,500	$12,600	$16,000	$25,000	$36,000	$44,000
Household income	$1,200	$6,300	$9,700	$18,700	$29,700	$37,700
Property taxes billed or rent-equivalent tax paid	$788	$900	$1,643	$1,080	$1,300	$2,000
Amount of reduction (times household income)	No reduction	.032	.042	.050	.050	.050
Percentage of credit allowed	100%	100%	100%	100%	40%	10%
Amount of credit (*Limited to $1,000)	$788	$698	$1,000*	$145	$0	$12

The example for $16,000 of gross household income assumes the claimant lives in a nonproperty tax-exempt health care facility for which there is not a breakdown between rent and amenities. In this case, the rent assumed is limited to $30 per day or rent-equivalent tax paid of $1,643. Administrative Rule 42.4.302 provides the $30 a day figure, which is effective for claim periods beginning after December 31, 2014. The limit for prior claim periods was $20 a day and was set in 1993. The Department adjusted the rent-per-day limit for inflation and adopted the revised rule on October 9, 2014.

In the example for $36,000 of gross household income, the property taxes billed are less than 5% of household income so the individual receives no credit.

In the example for $44,000 of household income, property taxes billed exceed 5% of household income so a credit is received but the allowed credit is 10% of the calculation because of the gross household income level.

Summary of Major Changes to the Credit Since Enactment

This section provides an overview of the major changes to the credit since its enactment in 1981. The changes are grouped by the year of enactment with the most recent changes appearing first.

1999

The 1999 Legislature increased the gross household income limit to $45,000 and added a phase-out of the credit for claimants with gross household income of $35,000 or more.

1997

The 1997 Legislature enacted House Bill No. 591 (Ch. 543) to target the elderly homeowner and renter credit to lower-income elderly by:

- inserting a $35,000 gross household income limit. Materials provided during the hearing indicated that 1,491 taxpayers who had been eligible for the credit would now be ineligible.
- revising definitions of "homestead" and "property tax billed" to allow the credit for all property taxes billed, including special assessments and fees, and not just ad valorem property taxes; and
- revising the definition of "household income" to create a standard exclusion of $6,300.

1995

The 1995 Legislature increased the maximum credit from $400 to its current level of $1,000 as part of a larger bill that also revised the property tax assistance program.

1991

The 1991 Legislature revised the definition of "income" to exclude social security income paid directly to a nursing home.

1989

The 1989 Legislature revised the credit by:

- increasing the exclusion from household income to the greater of 50% of the taxpayer's retirement income or $4,000; and
- extending the credit to taxpayers residing in tax-exempt property rented from a county or municipal housing authority.

1983

The 1983 Legislature enacted House Bill No. 227 (Ch. 134) to revise the credit by:

- increasing the maximum credit to $400 "to insure adequate relief to those persons with the highest property taxes in comparison to their incomes;"[1]
- enacting a definition of "household income" that included a standard exclusion of $4,000; and
- disallowing a claim for property not subject to property taxes.

1981 (Original provisions)

As originally enacted, the following were provisions of the elderly homeowner and renter credit:

- allowed a maximum refundable credit of $150;
- there was no exclusion from household income; and
- household income did not include social security income.

Recent Legislative Action

The 2015 Legislature considered Senate Joint Resolution No. 26 to study the elderly homeowner and renter credit with a focus on whether residents of property tax-exempt facilities should be eligible for the credit. Interest in this study topic came about during consideration of two bills to revise the eligibility for the elderly homeowner and renter credit: Senate Bill No. 194 (Caferro) and House Bill No. 287 (Jacobson). Neither of the bills became law but both aimed to allow residents of assisted living facilities and nursing homes to be eligible for the credit regardless of whether the facility is exempt from property taxes.

Current law allows residents of a county or municipal housing authority, which is generally exempt from property taxes, to claim the credit. During the previous interim, the Department of Revenue briefed the committee about compliance efforts related to the elderly homeowner and renter credit as it applies to residents of health care facilities. DOR officials realized in 2013 that residents of property tax-exempt assisted living and nursing home facilities that were ineligible for the credit were applying for and receiving the credit. Upon investigating the issue, DOR began denying claims for residents of ineligible tax-exempt facilities for tax year 2013.

Property Tax Assistance Programs

Taxpayers eligible for the elderly homeowner and renter credit who own their property may also be eligible for the property tax assistance program for those with fixed or limited income or the disabled veteran program.[2] These programs reduce the property tax owed by an eligible taxpayer. If the taxpayer meets the eligibility requirements for the elderly homeowner credit, the taxpayer could also claim that credit for the actual amount of property taxes paid (excluding the reduction amount).

Possible Areas for Additional Consideration

The following are areas in which the committee may wish to consider revisions or seek additional information:

- adjusting for inflation the income levels for eligibility, the standard exclusion from household income, and the household income levels used to calculate the reduction. The Legislature last

[1]Testimony of Rep. Dan Yardley, bill sponsor, as recorded in the minutes of the January 20, 1983, House Taxation Committee meeting.

[2]The 2015 Legislature revised these programs in Senate Bill No. 157 and they will be recodified in section 15-6-305 and section 15-6-311, respectively, in the 2015 Montana Code Annotated.

changed the income levels used for eligibility in 1999 and revised the standard exclusion from household income in 1997. The household income levels used to calculate the reduction have not been revised since enactment in 1981.

- the age of eligibility for the credit, which is age 62. The early eligibility age for Social Security benefits is age 62. The full retirement age for Social Security was originally set at age 65 but amendments enacted in 1983 raise the full retirement age gradually to age 67, beginning with people born in 1938 or later.[3]

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[3] Gary Sidor, "The Social Security Retirement Age: In Brief," *Congressional Research Service*, June 1, 2015.