Guideline - Property Tax: Credits for ND Homeowners and Renters

May 2018

Homeowners

A homeowner may qualify for a reduction in the taxable value of the homestead.

Eligibility Requirements

Age

1. The applicant must be 65 years of age or older in the year for which the application for a property tax credit is made, ***except*** if the applicant is totally and permanently disabled, there is *no* age requirement.
2. In instances where a husband and wife are living together and both parties are 65 years of age or older, only one may apply for the credit. In no instance shall a husband and wife living together both be entitled to a credit.
3. In instances where a husband and wife are living together and only one is 65 years of age or older, the spouse who is 65 years of age or older is eligible to apply for the credit.

Disability

4. The applicant must be permanently and totally disabled. A person who becomes disabled after February 1 is eligible for the credit for that year.
5. Permanently and totally disabled means the 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 twelve months. Substantial gainful activity is established annually by the U.S. Social Security Administration and found at www.ssa.gov; search for substantial gainful activity.
6. Proof of permanent and total disability must be established with a certificate from a licensed physician or a written determination of disability from the social security administration or any federal or state agency authorized to certify an individual's disability.
7. The initial physician's certificate or determination establishing eligibility remains in effect until circumstances change. An assessor may require a new physician's certificate if there is evidence of a change in eligibility, for example, an increase in wages or salary which might indicate the applicant is now engaged in substantial gainful activity. For 2015, substantial gainful activity was set at $1,090 a month for people with disabilities and $1,820 a month if the person is blind. For 2016, substantial gainful activity was set at $1,130 a month for people with disabilities and $1,820 a month if the person is blind. For 2017, substantial gainful activity was set at $1,170 a month for people with disabilities and $1,950 a month if the person is blind. For 2018, substantial gainful activity was set at $1,180 a month for people with disabilities and $1,970 a month if the person is blind.

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Income

8. Income received by the applicant, plus the income of a spouse and any dependents, for the calendar year preceding the assessment date may not exceed $42,000 after deduction of eligible medical expenses. Income from *all* sources is considered.

9. The income of a spouse is not included with the income of the applicant if the spouse is not dependent upon the applicant, and a premarital agreement specifically provides that spousal support is eliminated. Where the spouse has legal interest in the property but is not dependent upon the applicant, the amount of credit for which the applicant is eligible is reduced by the amount of the spouse's interest. The status of the agreement should be verified each year.

10. Income includes but is not limited to:
    - Social security benefits
    - Pensions, including military pension and I.R.A.
    - Salaries and wages
    - Dividends and Interest
    - TANF (Temporary Assistance for Needy Families)
    - Net gains from the sale of property
    - Net rental income
    - Net profit from any business, including farming and ranching
    - Unemployment compensation benefits
    - Alimony

11. Items which are not income for purposes of homestead credit include but are not limited to:
    - Life insurance proceeds
    - Money received from gifts or inheritance
    - Social security lump sum death payments
    - Workers compensation payments, including survivor benefits
    - Insurance policy proceeds for illness, injury or dismemberment
    - Insurance policy proceeds for casualty losses to property
    - Child support
    - Federal fuel assistance
    - Renters refund
    - Food stamps
    - VA disability

12. By law, stipends from the following *federal* programs are not considered income:
    - Foster Grandparents Program
    - Retired Senior Volunteer Program
    - Senior Companion Program
    - Vista Program

13. Applicants may deduct from their income the amount of medical expenses actually paid by them or by any person dependent upon them and not reimbursed by insurance or other form of compensation. Medical expenses that have been incurred but not paid are not deductible. The term medical expenses has the same meaning as it has for federal income tax purposes. Prescription drugs are deductible but over-the-counter drugs are not deductible.

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14. Income other than from a particular business cannot be reduced by offsetting against it an operating loss of that business (including a casualty loss incurred by the business). An operating loss of a business cannot be carried over to the next year and deducted from the income of that business in that year.

15. Applicants' financial information is confidential. Therefore, the data on questions 4 through 11 on the application cannot be divulged but may be provided to local officials where necessary to perform their official duties.

Assets

16. In addition to age or disability and income requirements, the applicant may not, on the assessment date, have assets in excess of $500,000 including the market value of the homestead.

17. Assets include anything of value owned by the applicant; for example: real estate, personal property, life insurance death proceeds, cash value of insurance policies, savings accounts, or any assets gifted or otherwise divested within the last three years.

Additional Requirements

18. Homestead is defined as contiguous land and improvements not to exceed $125,000 in value. Lots that are otherwise contiguous (share a common point) will not lose contiguity if separated by a public road or right of way.

19. The applicant must reside on the property for which the credit is claimed and, as of the assessment date, have an interest in the property. Generally, such an interest can best be established by a written record or document, such as a deed, contract for deed, life estate, or declaration of homestead.

20. An applicant who resides in one unit of a multi-unit building is eligible for the credit for the property up to a maximum of $125,000 in value.

21. When a husband and wife hold property in joint tenancy, the eligible applicant is entitled to a full credit. See No. 9 under Income on page G-2 where there is a non-dependent spouse and a premarital agreement eliminating spousal support. When property is owned in joint tenancy with person(s) other than the applicant's spouse, the value of the property is to be apportioned on the basis of the number of joint tenants and the credit is calculated from the portion allocated to each eligible applicant.

    Example:

    A husband and wife own a residence in joint tenancy with their son who is not a dependent. The true and full value of the property is $76,000 ($3,420 taxable value). The husband and wife have 2/3 interest in the property and qualify for a 40% homestead credit.

$3,420 x 2/3 interest	=	$2,280	
	x	40%	
Homestead Credit	$	912	taxable value

22. An applicant who is temporarily absent from the homestead is still eligible for the credit if the homestead awaits the applicant's return and is not rented.

23. A person whose homestead is exempt as a farm residence pursuant to N.D.C.C. § 57-02-08(15) is not eligible for this credit.

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24. A legal representative of a qualified homeowner may make application for the credit on behalf of the owner.
25. If a recipient of the homeowner's property tax credit sells the homestead, the credit is portable and may be applied to the recipient's new homestead.
26. In the event of the applicant's death, all benefits terminate at the end of the taxable year.

* 27. If there is more than one tax credit having the same priority, the tax credits must be allowed in the order that is most beneficial to the taxpayer (see examples 34 and 35).

Computing the Credit for Homeowners

28. The property tax credit is given in the form of reduced property tax assessment.
29. The credit applies directly to the taxable value of the homestead. The maximum credit allowed beginning with the 2016 assessment is calculated as follows:

If the applicant's income is		Taxable value is reduced by	Maximum reduction
$ 0	22,000	100%	$5,625
22,001	26,000	80%	4,500
26,001	30,000	60%	3,375
30,001	34,000	40%	2,250
34,001	38,000	20%	1,125
38,001	42,000	10%	563

30. The Senior Citizens or Disabled Persons Property Tax Credit is subject to adjustment, equalization, and abatement in the same manner as other real property tax assessments.

Calculations: Various Scenarios (Assume all applicants qualify)

31. Facts: Taxable Value (TV) of homestead for 2016 is greater than $5,625. Applicant's income provides an 80% homestead credit.

Taxable Value (TV) of homestead		$ 8,775
Maximum TV credit allowed	$ 5,625	
x Applicant's interest in property (100%)	x 1.00	
TV of credit allowed for 100% interest	$ 5,625	
x Homestead credit allowed (80%)	x .80	
TV of credit		- 4,500
TV of homestead after homestead credit ($8,775 - $4,500)		**$ 4,275**

32. Facts: Taxable value (TV) of homestead is less than $5,625. Applicant's income provides a 60% credit. Applicant is single and co-owns the homestead with a non-spouse.

Taxable Value (TV) of homestead		$ 4,005
TV of credit available (TV of homestead less than $5,625)	$ 4,005	
x Applicant's interest in the property (50%)	x .50	
TV of credit allowed for 50% interest	$ 2,003	
x Homestead credit allowed (60%)	x .60	
TV of credit		- 1,202
TV of homestead after homestead credit ($4,005 - $1,202)		**$ 2,803**

33. Facts: An applicant's income provides a 60% credit. Applicant is married and is living with the spouse. Applicant sold House No. 1 on March 31, and bought and moved into House No. 2 on April 1. The applicant was eligible for the credit for House No. 1 from January 1 through March 31. Applicant was eligible for credit for House No. 2 from April 1 through December 31.

Homestead No. 1

Taxable Value (TV) of homestead		$ 7,560
Maximum TV credit allowed	$5,625	
x Applicant's interest in property (100%)	x 1.00	
TV of credit allowed for this applicant	5,625	
x Homestead credit allowed (60%)	x .60	
TV of credit	$ 3,375	
x Percentage of year applicant is eligible for credit January 1 – March 31 (3/12 = 0.25 or 25%)	x .25	
TV of Applicant's credit for 3 months		- 844
TV of **Homestead No. 1** after homestead credit ($7,560 - $844)		**$ 6,716**

Homestead No. 2

Taxable Value (TV) of homestead		$ 9,450
Maximum TV credit allowed	$5,625	
x Applicant's interest in property (100%)	x 1.00	
TV of credit allowed for this applicant	5,625	
x Homestead credit allowed (60%)	x .60	
TV of credit	$ 3,375	
x Percentage of year applicant is eligible for credit April 1 – December 31 (9/12 = 0.75 or 75%)	x .75	
TV of Applicant's credit for 9 months		- 2,531
TV of **Homestead No. 2** after homestead credit ($9,450 - $2,531)		**$ 6,919**

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* 34. Facts: Applicant qualifies for 50% disabled veterans credit and 80% homestead credit. The applicant is married, is living with the spouse, owned the homestead for 12 months and has 100% ownership.

Taxable Value (TV) of homestead (land and bldgs.) =		$ 7,628
DVC applied first:		
Maximum TV allowed	$6,750	
x Applicant's interest in the property	x 1.00	
TV of credit allowed for this applicant	6,750	
x Disability percentage (50%)	x .50	
TV of credit	$ 3,375	
x Percentage of year applicant is eligible for credit January 1 – December 31	x 1.00	
TV of Homestead after disabled veterans credit		- 3,375
		$ 4,253

HPC applied to remaining taxable value ($4,253).

Remaining Taxable Value		$ 4,253
x Applicant's interest in the property	x 1.00	
TV of credit allowed for this applicant	4,253	
x Disability percentage (80%)	x .80	
TV of credit	$ 3,402	
x Percentage of year applicant is eligible for credit January 1 – December 31	x 1.00	
TV of Homestead after disabled veterans credit		- 3,402
		$ 851

Taxpayer will owe taxes on the remaining 851 taxable value (7,628 - (3,375+3,401) = 851).

NOTE - Remember to perform calculations to determine which credit should be applied first to determine the greater benefit for the applicant.

* 35. Facts: Applicant qualifies for 100% disabled veterans credit and 100% homestead credit. The applicant is married, is living with the spouse, owned the homestead for 12 months and has 100% ownership.

Taxable Value (TV) of homestead (land and bldgs.) =		$13,000
DVC applied first:		
Maximum TV allowed	$6,750	
x Applicant's interest in the property	x 1.00	
TV of credit allowed for this applicant	6,750	
x Disability percentage (100%)	x 1.00	
TV of credit	$ 6,750	
x Percentage of year applicant is eligible for credit January 1 – December 31	x 1.00	

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TV of Homestead after disabled veterans credit		- 6,750
		$ 6,250

HPC applied to remaining taxable value ($6,250).

Maximum TV allowed	$ 5,625	
x Applicant's interest in the property	x 1.00	
TV of credit allowed for this applicant	5,625	
x Disability percentage (100%)	x 1.00	
TV of credit	$ 5,625	
x Percentage of year applicant is eligible for credit January 1 – December 31	x 1.00	
TV of Homestead after disabled veterans credit		- 5,625
		$ 625

Taxpayer will owe taxes on the remaining 625 taxable value (13,000 - (6,750+5,625) = 625).

NOTE - Remember to perform calculations to determine which credit should be applied first to determine the greater benefit for the applicant.

Funding of the Property Tax Credit

36. The state reimburses the counties for the full amount of credit allowed to each homeowner.

Renters

A renter may qualify for a refund of a portion of the rent deemed to represent property taxes.

Eligibility Requirements

Age/Disability

37. A renter must meet the same age or disability requirements as a homeowner.

Income

38. A renter must meet the same income requirements as a homeowner. The income in the previous year cannot exceed $42,000.

Assets

39. A renter is not subject to any asset requirements.

Additional Requirements

40. Federal rent subsidy is excluded from the calculation of rent and income.

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41. Heat, lights, water and garbage service, telephone, cable TV or furniture costs may not be considered as part of rent costs. If the landlord pays for utilities or provides furniture, the applicant must deduct the cost of those items from rent when applying for a refund. If the renter pays for the utilities and furniture or cable TV, the renter may not add the cost of those items to the rent when applying for the refund. Rent paid for a garage may not be included.

42. No refund may be made to a person who pays rent or fees for any living quarters, including a nursing home, that are exempt from taxation; however, qualified renters are eligible for a refund if the living quarters are subject to payments in lieu of property taxes.

43. A person who received a homeowner's property tax credit is not eligible for a renter's property tax refund for the same year. Exception: a qualifying owner of a mobile home located on a rented lot may apply for the homeowner's property tax credit on the mobile home and a renter's refund of part of the lot rent paid.

44. Application for the refund must be filed with the Office of State Tax Commissioner *before* June 1 following the year for which the refund is claimed. However, for good cause, the tax commissioner may grant an extension of time to file an application.

45. There is no provision for applying for a prior year's renter's property tax refund.

Computing The Renter's Property Tax Refund

46. In order for the applicant to receive a refund of part of the rent paid, 20% of the annual rent payments must exceed 4% of the applicant's annual income. The renter receives a refund of the difference.

    Example:
    - A renter pays $450 rent per month ($5,400 per year).
    - The renter's income is $18,000.
    - 20% of $5,400 is $1,080.
    - 4% of $18,000 is $720.
    - $1,080 minus $720 equals $360.

    The renter is entitled to a refund of $360.

47. A refund may not exceed $400. A qualifying applicant will receive no less than a $5 refund.

48. The estate of a deceased applicant may apply for a refund for the portion of the previous year during which the applicant paid rent.

* Indicates significant change since last revised.