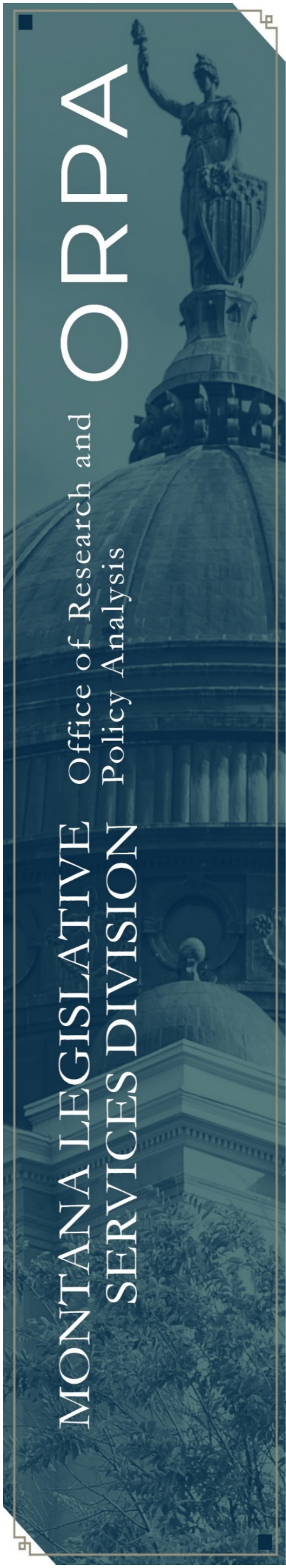

July 2020

Revenue Interim Committee
Megan Moore

ELDERLY HOMEOWNER & RENTER TAX CREDIT

EXPLANATION OF THE CREDIT

The elderly homeowner and renter credit is an income tax credit for property taxes paid. The credit is for property taxes billed and paid directly or property taxes paid indirectly through rent. Sections 15-30-2337 through 15-30-2341, MCA, provide for the credit.

Eligibility requirements include:

- ✓ Age 62 or older;
- ✓ Lived in Montana at least 9 months of the year;
- ✓ Lived in one or more eligible dwellings as an owner or renter for at least 6 months of the year; and
- ✓ Gross household income less than $45,000.

Taxpayers claim the tax credit for property taxes paid in the previous year by filling out the Elderly Homeowner/Renter Credit Schedule when filing income taxes.[1] The maximum credit amount is $1,000 and it may be refunded.

DETERMINING THE CREDIT AMOUNT

The credit is calculated based on **household income** and **property tax billed** or **rent-equivalent tax paid**. This section explains the definitions necessary to understand the credit calculation. The definitions are provided for in 15-30-2337, MCA. Throughout this section, defined terms appear in **bold text**.

[1] Before tax year 2019, there was a separate form to claim the credit, Form 2EC. The schedule is now included within Form 2.

HOUSEHOLD INCOME

The elderly homeowner and renter credit is for taxpayers with **gross household income** of $45,000 or less. Both **household income**, which is **gross household income** minus $6,300, and **gross household income** are used to determine the credit amount. The definitions of **household income, gross household income**, **household**, and **income** are shown in the following graphic.

Household income = gross household income - $6,300

Gross household income	Household	Income
Income received by all individuals of a **household** while they are members of the household	Persons who live in the same dwelling and share its furnishings, facilities, accommodations, and expenses. Excludes lessees, tenants, and roomers on contract	Federal adjusted gross income without regard to loss, plus all nontaxable income Examples of nontaxable income: pensions, social security income not paid directly to a nursing home, cash public assistance, and capital gains excluded from adjusted gross income

PROPERTY TAX BILLED OR RENT-EQUIVALENT TAX PAID

The elderly homeowner and renter credit is equal to a portion of **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 or a unit of a multiple-unit dwelling that is subject to property taxes in Montana and as much of the surrounding land up to 1 acre; or
- a single-family dwelling or unit of a multiple-unit dwelling 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.

Administrative Rule 42.4.302 gives additional detail about the computation of the credit. The rule provides that married taxpayers living apart may only receive one elderly homeowner and renter credit per year.

The rule also offers details on how to determine rent if the taxpayer lives in a long-term or residential care facility and the rent payment includes amenities. If the facility provides an itemized statement showing the amount paid for rent, that figure should be used. If an itemized statement is not available, the taxpayer must deduct the amount paid for amenities by deducting:

- 20% for services related to board such as meals, housekeeping, laundry, and transportation;
- 30% for services related to continuous care such as assisted living, medical care, paramedical care, memory care, medical supplies, and pharmacy; or
- 50% if both types of services are provided.

CALCULATING THE CREDIT

The elderly homeowner and renter credit is equal to **property tax billed** or **rent-equivalent tax paid** less a reduction based on **household income**. The reduction amounts are shown in the table below.

Taxpayers with less than $2,000 in **household income** receive a credit equal to the full amount of **property tax billed** or **rent-equivalent tax paid**. For taxpayers with **household income** above $2,000 and **gross household income** less than $35,000, the reduction ranges from 0.6% of **household income** to 5% of **household income**.

Household Income	Reduction	Household Income	Reduction
$0 - $1,999	$0	$7,000 - $7,999	.035 * **household income**
$2,000 - $2,999	.006 * **household income**	$8,000 - $8,999	.039 * **household income**
$3,000 - $3,999	.016 * **household income**	$9,000 - $9,999	.042 * **household income**
$4,000 - $4,999	.024 * **household income**	$10,000 - $10,999	.045 * **household income**
$5,000 - $5,999	.028 * **household income**	$11,000 - $11,999	.048 * **household income**
$6,000 - $6,999	.032 * **household income**	$12,000 & over	.05 * **household income**

Taxpayers with **gross household income** of $35,000-$44,999 are allowed a percentage of the calculated credit ranging from 10% to 40%. The initial calculation uses the 5% reduction from the above table and the resulting amount is multiplied by the percentage corresponding to **gross household income** in the table below. The credit phases out completely at **gross household income** of $45,000.

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 or more	0%

SUMMARY OF CREDIT CALCULATION

Determine **gross household income**

→ Subtract $6,300 to get **household income**

→ Multiply **household income** by applicable percentage to determine reduction amount

→ Subtract the reduction amount from **property tax billed/rent-equivalent tax paid**
If **gross household income** >$35,000, apply percentage of credit allowed

→ Credit = lesser of $1,000 or amount determined in previous box

PURPOSE & LEGISLATIVE HISTORY

PURPOSE

The Legislature did not include a purpose statement when enacting the elderly homeowner and renter tax credit. However, the meeting minutes from the bill hearings include comments by the sponsor, Sen. Pat Regan, that offer some insight into her reasons for sponsoring the bill.

In the Senate Taxation Committee hearing, Sen. Regan stated that elderly taxpayers often have lower incomes after retirement while still facing increasing property taxes. Sen. Regan asserted that property taxes make up a larger share of elderly taxpayers' expenses, citing national figures of 8.1% compared with 3.4% for younger taxpayers.[2]

Sen. Regan also mentioned in the House Taxation Committee hearing that taxpayers who itemize their deductions may deduct property tax payments. However, lower income taxpayers are less likely to itemize deductions and renters cannot deduct property taxes paid through rent. Jim Jensen of the Low Income Senior Citizens Advocacy testified that an important feature of the bill is the property tax relief for renters, who prior to the passage of the bill, did not receive any property tax relief.[3]

CHANGES TO DEFINITION OF INCOME, CREDIT AMOUNT, INCOME LIMIT

The following graphic shows major changes to the elderly homeowner and renter credit. The most significant changes were to the definition of income, the amount of the credit, and the maximum income of credit recipients.

Enactment: 1981

- $150 refundable credit based on **household income**
- **Income** excludes social security benefits

1983

- Maximum credit increased to $400
- **Income** revised to include social security benefits
- Provides for **household income** standard exclusion of $4,000
- Disallows credit for property not subject to property taxes

1989

- **Household income** exclusion revised to greater of $4,000 or 50% of retirement income
- Allows credit for residents of tax-exempt property rented from a county or municipal housing authority

1991

- **Income** revised to exclude social security paid directly to a nursing home

[2] Minutes of the Senate Taxation Committee, Feb. 12, 1981.
[3] Minutes of the House Taxation Committee, April 7, 1981.

1995

- Maximum credit increased to $1,000

1997

- Limits credit to those with **gross household income** of less than $35,000
- Revises h**ousehold income** standard exclusion to $6,300
- **Property tax billed** revised to include fees and special assessments

1999

- Increases limit on credit to $45,000 of **gross household income** with phaseout of credit for incomes between $35,000 and $45,000

TAXPAYER USE OF CREDIT

The table below shows taxpayer use of the elderly homeowner and renter credit since 1990. The table shows the number of credits claimed, the total dollars claimed, the average credit claimed, and credits as a percentage of total state property tax collections.[4]

From the mid-1990s through 2012, 20,000 taxpayers or more claimed the credit each year. Since 2012, the number of taxpayers claiming the credit has declined. However, the number of credits claimed before 2011 may be overstated because the count may include tax returns that calculate the credit as $0. Two other reasons usage could be declining is an increased awareness that the credit may not be taken by residents of tax-exempt property (such as nursing homes) and some taxpayers could have income in excess of the income limit amount. The income limit was last amended in 1999 and is not adjusted for inflation.

The total dollar value of credits claimed ranged from a low of $3.5 million in 1990 to more than $12 million in 2004. The average credit amount has increased nearly $300 over the period for which data is available, from $228 in 1990 to $518 in 2018. This is likely a result of property taxes increasing over time.

[4] Credits claimed are in calendar years and property taxes are in fiscal years.

Tax Year	Number Claimed[5]	Dollars Claimed	Average Credit Claimed	State Property Taxes Collected (FY)	Credits as % of State Property Taxes
1990	15,489	$3,532,590	$228	*[6]	*
1991[7]	17,294	$4,091,665	$237	$58,996,222	6.9%
1992	18,104	$4,522,814	$250	$151,556,626	3%
1993	19,033	$5,068,179	$266	$155,335,684	3.3%
1994	21,271	$5,819,413	$274	$164,327,660	3.5%
1995[8]	21,728	$7,971,397	$367	$169,865,680	4.7%
1996	21,987	$8,200,406	$373	$175,942,213	4.7%
1997[9]	20,147	$8,618,576	$428	$178,228,415	4.8%
1998	20,181	$8,816,342	$437	$182,264,420	4.8%
1999[10]	21,456	$8,875,760	$414	$183,409,360	4.8%
2000	20,884	$8,737,471	$418	$181,809,147	4.8%
2001	21,628	$9,544,352	$441	$159,613,015	6%
2002	23,374	$11,049,173	$473	$161,397,918	6.9%
2003	24,475	$11,889,280	$486	$163,631,935	7.3%
2004	24,892	$12,193,123	$490	$164,829,338	7.4%
2005	24,384	$11,580,607	$475	$169,732,812	6.8%
2006	23,681	$10,726,021	$453	$176,643,979	6.1%
2007	22,081	$9,810,626	$444	$186,299,354	5.3%
2008	22,287	$10,315,870	$463	$197,058,885	5.2%
2009	25,279	$11,580,831	$458	$205,567,181	5.6%
2010	24,769	$11,355,362	$458	$214,440,268	5.3%
2011	22,133	$10,790,925	$488	$221,314,014	4.9%

[5] The number of credits claimed includes taxpayers who claimed the credit on their income tax returns and taxpayers who were not required to file an income tax return and filed a separate Form 2EC.
[6] Property taxes are not reported for FY1990 because the 1989 Legislature enacted the 40 mills for state equalization and increased the elementary equalization mills (from 28 mills to 33 mills) and the high school equalization mills (from 17 mills to 22 mills). Before the existence of the state equalization mills, the elementary and high school equalization mills were reported with school district property taxes.
[7] **Income** definition revised to exclude social security paid directly to a nursing home.
[8] Maximum credit increased from $400 to $1,000.
[9] Credit limited to households with **gross household income** of $35,000. Standard exclusion increased to $6,300. Property tax billed includes special assessment and fees.
[10] Limit on **gross household income** increased to $45,000 and credit phases out between $35,000 and $45,000.

Tax Year	Number Claimed	Dollars Claimed	Average Credit Claimed	State Property Taxes Collected (FY)	Credits as % of State Property Taxes
2012	20,324	$9,641,545	$474	$228,803,977	4.2%
2013[11]	17,788	$8,487,894	$477	$233,997,767	3.6%
2014[12]	16,373	$7,841,377	$479	$241,541,623	3.3%
2015	16,134	$7,828,845	$485	$241,477,506	3.2%
2016	16,202	$8,018,184	$495	$250,553,092	3.2%
2017	16,277	$8,300,245	$510	$257,908,937	3.2%
2018	16,345	$8,459,636	$518	$276,405,990	3.1%

NO CONCERNS WITH ADMINISTRATION OF CREDIT

Staff contacted the Department of Revenue about the administration of the elderly homeowner and renter tax credit. The Department does not have concerns with the administration of the credit.

POSSIBLE REVISIONS & AREAS OF LEGISLATIVE INTEREST

RTIC PROPOSAL TO ALLOW CREDIT FOR TAX-EXEMPT RESIDENCES

The 2015-2016 Revenue & Transportation Interim Committee studied the elderly homeowner and renter tax credit.[13] The focus of the study was whether taxpayers should be allowed to claim the credit for property not subject to property taxes.

Taxpayers who reside in property rented from a county or municipal housing authority are specifically authorized to claim the credit even though the property is not subject to property taxes. Residents of private nursing facilities that are not subject to property taxes may not claim the credit. Beginning in 2013, the Department of Revenue conducted compliance activities and denied the credit to taxpayers residing in ineligible tax-exempt facilities. The

[11] The Department of Revenue conducted compliance activities to verify that credits are not claimed by residents of nursing care facilities not subject to property taxes. The Department denied 493 credits. See Lee Baerlocher memo to Revenue and Transportation Interim Committee, "Elderly Homeowner and Renter Credit Program," Sept. 18, 2015.
[12] Compliance activities continued and the Department denied 66 credits.
[13] Study materials available at https://www.leg.mt.gov/committees/interim/past-interim-committees/2015-2016-revenue-and-transportation-committee/elderly-homeowner-and-renter-credit/.

Department also worked to educate tax preparers and operators of property-tax exempt facilities about the eligibility requirements.[14]

The Revenue & Transportation Interim Committee introduced House Bill 19 during the 2019 legislative session to allow residents of tax-exempt property to claim the credit. The House Taxation Committee tabled the bill.

This committee may wish to consider whether the credit should be allowed for residents of tax-exempt facilities.

CREDIT AMOUNT, INCOME LIMITS UNCHANGED FOR 20 YEARS

The Legislature has not amended the amount of the elderly homeowner and renter credit or the figures used to calculate the credit in more than 20 years, and there are no inflationary increases in the figures used to calculate the credit. If the purpose of the credit is to provide property tax relief, the committee may consider whether the credit is providing the desired level of relief since property taxes tend to go up over time.

HOUSEHOLD INCOME

The household income ranges used to determine the reduction amount have been in place since the bill's enactment in 1981. The Legislature did amend the definition of household income in 1997 to increase the standard exclusion to $6,300. The previous standard exclusion was the greater of $4,000 or 50% of retirement income. The increase in the standard exclusion has the effect of reducing household income and, thus, the reduction amount, but some taxpayers may have had a higher exclusion using 50% of retirement income.

INCOME LIMIT

Taxpayers with gross household income of $45,000 or more may not claim the credit and the credit begins to phase out at $35,000 of gross household income. The Legislature last revised the gross household income limit in 1999.

Note that the income limit is calculated using gross household income, which does not include the $6,300 standard exclusion used to calculate household income for determining the reduction amount. Using different income figures to calculate the reduction amount and the income limit may cause confusion.

CREDIT AMOUNT

The maximum credit has been $1,000 since 1995. The Legislature considered bills to increase the maximum credit in 2005, 2009, 2013, 2015, and 2019.

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14 Lee Baerlocher, Memorandum: "Elderly Homeowner and Renter Credit Program," Sept. 18, 2015.

In 2019, Rep. Mike Hopkins sponsored House Bill 340 to increase the maximum credit to $1,700. The House Appropriations Committee tabled the bill.

Sen. Hoven carried Senate Bill 170 in 2019 which, in its original form, would have increased the credit to $1,200 and increased the standard exclusion from household income to $12,700 (thereby reducing the reduction amount and increasing the credit).

The Senate Taxation Committee amended SB 170 to retain the $1,000 maximum credit. The amendments also left the standard exclusion unchanged and instead widened the household income ranges used to calculate the reduction amount and revised the phaseout of the credit to a 1% reduction in the credit for each $150 in gross household income above $30,000. The House Taxation Committee tabled Senate Bill 170.

CONSIDER CIRCUIT BREAKER BEST PRACTICES, HJ 35 LEGISLATION

As part of the House Joint Resolution 35 study of state and local taxation, that committee reviewed Lincoln Institute of Land Policy recommended design features for a property tax circuit breaker. The information included a staff report analyzing the elderly homeowner and renter credit on the recommended design features.[15]

The committee may consider whether to incorporate into the elderly homeowner and renter program the following design features recommended in the Lincoln Institute of Land Policy report[16]:

- set a limit on the maximum property value considered in the credit formula; and
- place no other limits on income, benefits, or net worth.

The report also recommends a circuit breaker that includes homeowners and renters of all ages. The elderly homeowner and renter credit is designed for owners and renters age 62 or older. Three other state programs reduce taxable value for certain taxpayers:

- The Property Tax Assistance Program reduces taxable value on up to $200,000 of taxable value for homeowners with federal adjusted gross incomes below $23,337 for single taxpayers and $31,116 for married or head of household taxpayers;
- The Disabled Veteran Program reduces taxable value for disabled veterans with federal adjusted gross incomes below $53,955 for single taxpayers and $62,256 for married/head of household taxpayers, and for unmarried surviving spouses with federal adjusted gross income below $47,038.

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[15] Megan Moore, "Property Tax Circuit Breakers," January 2020, p. 6-7.
[16] John H. Bowman, Daphne A. Kenyon, Adam Langley, and Bethany P. Paquin, "Property Tax Circuit Breakers: Fair and Cost-Effective Relief for Taxpayers," Lincoln Institute of Land Policy, 2009.

- If the appraised value of land is more than 150% of the appraised value of the primary residence, the Intangible Land Value Property Exemption reduces the appraised value of the land to 150% of the appraised value of the primary residence.

The HJ 35 study committee requested a circuit breaker bill that will be reviewed at the July meeting. That bill is modeled after the elderly homeowner and renter credit but would expand it to all owners and renters regardless of age. The bill would also repeal the Property Tax Assistance Program, the Disabled Veterans Program, and the Intangible Land Value Property Exemption. The committee may wish to coordinate any HJ 35 legislation with recommendations and legislation resulting from the review of this tax credit.