

**This notice was amended on February 22, 1993 by Revenue Notice # 93-08. Please see Revenue Notice # 93-08 for the amended language.**

## **Revenue Notice # 92-26**

### **No Property Tax Refunds for Certain Homesteads**

The purpose of this Notice is to give examples of how to apply the law which prohibits property tax refunds for relative homesteads. This law is in effect beginning with timely-filed refund claims submitted in 1993.

Residential real estate in Minnesota, that is occupied and used for purposes of a homestead by a relative of the owner, qualifies for homestead property tax benefits because of recent changes to Minnesota law. According to the law, a 'relative of the owner' means either a parent, stepparent, child, stepchild, spouse, grandparent, grandchild, brother, sister, uncle or aunt of the owner.

These changes, affecting homesteads, were enacted by the state legislature in 1992. The changes are in effect beginning with the 1992 assessment for property taxes payable in 1993, and thereafter. An important part of these changes says that neither the related occupant nor the owner of the property may claim a property tax refund for a homestead occupied by a relative. (See Laws of 1992, chapter 511, article 2, section 13, amending Minn. Stat. § 273.124, subdivision 1.)

Following are several examples which illustrate the correct application of this property tax refund law:

**a) An individual owns several acres of land, and the house which is located on that land. The owner uses the property as their primary, and only, residence. The county has correctly classified the property as a regular homestead for property tax purposes.**

This person may file a claim for the regular (homeowner's) property tax refund. The refund they receive, if any, will be based upon the household income for the claimant, as it compares to the qualifying property tax for the property.

The owner of the property may also be eligible to file a claim for the special property tax refund if they owned the same property in the prior year. In that case, the refund will be based on the increase in the qualifying property tax amount for taxes payable in 1993, as compared to the taxes payable in the previous year.

**b) Continuing with the first example, assume there is a second house on the property. The property owner's father lives in the second house. The owner and their father have properly applied to the county so that this house (plus a garage, if there is one, and up to one acre of land) is classified as a relative homestead.**

Regardless of who actually pays the property taxes, and regardless of whether or not the father pays rent in order to live on the relative-homestead property, no one may claim a property tax refund on this second house, garage, and up to one acre of land. All three types of refunds are prohibited; both the regular and the special homeowner's property tax refunds, and any renter's refund.

**c) The property owner from the first example is also the sole owner of a home located elsewhere in this state. His aunt occupies that home as her primary residence. Proper application has been made with the county where the home is located so that the property is classified as a relative-**

## **homestead.**

This is just like the previous example, except this example shows that a relative homestead does not need to be located next to, or near the owner's residence. As with the previous example, no one may claim any property tax refunds in regard to this home. It doesn't matter who actually pays the property taxes, and it doesn't matter if the occupant actually pays rent.

**d) In another situation, involving a different family, the sister is the sole owner of a house which her brother occupies. The brother is the sole occupant of the home, and it is his primary residence. In this case, however, the sister and the brother have decided not to apply to the county for property tax homestead benefits -- although they could. The county therefore, has correctly placed this property in the 'residential nonhomestead' class for property tax purposes.**

In this case, a renter's property tax refund claim will be allowed for the brother if it is based on the rent he pays in order to live in the house. A homeowner's claim, for either the regular property tax refund or the special property tax refund, will not be allowed because the owner does not use the property as her homestead.

In future years, the sister and brother may decide to apply for property tax homestead benefits. If they meet all the qualifications at that time, the property will be classified as a relative homestead for property tax purposes. If that happens, a person paying rent to live in the property will no longer be allowed to claim a renter's property tax refund. Refunds based on rent paid during a year in which the occupied property was paying relative-homestead property taxes, are not allowed.

**e) Brother and sister -- not related to anyone in the previous examples -- own a home (either as joint tenants, or as tenants in common). Both siblings use the home as their homestead. Because they are each entitled to homestead their own one-half of the property, the entire home is classified as a regular homestead by the county for property tax purposes.**

This property is not a relative homestead. It is a regular homestead, and because both owners live there, it is entitled to full property tax homestead benefits. Also, a homeowner's property tax refund claim is allowed. Either of the two owners may file for the one homeowner's property tax refund that will be allowed for the property as a whole. The claim must be based on the total qualifying property tax, and the combined household incomes of the two owner-occupants.

Although only one homeowner's claim is allowed, that claim may be for both the regular homeowner's refund and the special homeowner's refund, assuming that the tax and income amounts are such that the claimant is entitled to both types of refunds.

**f) Two sisters own a home, either as joint tenants, or as tenants in common. Only one of them uses the home as their homestead. Because each of the two owners are entitled to have their half of the property classified as a homestead for property tax purposes, the entire home is classified as a homestead by the county (one-half as a regular homestead, one-half as a relative homestead).**

The owner who uses the property for a homestead, may file a homeowner's property tax refund claim. The claim will be allowed if it is based upon the property's qualifying tax amount and the household income of the owner-occupant.

### **Changes in Classification**

If property which was not classified as a relative homestead becomes a relative homestead for property tax purposes, no property tax refunds will be paid beginning with timely filed homeowner claims filed in the year following the year when the property was first assessed as a relative homestead, and with timely filed renters' claims filed in the second year following the year when the property was first assessed in the relative homestead class.

For example, if a relative and an owner applied to the county in 1992 to have a parcel of residential nonhomestead property classified as a relative homestead for the 1992 assessment, a renter's property tax refund claim filed in 1993 and based on rent paid in 1992 would be allowed. Claims based on rent paid in 1993 are not allowed. If application to the county is first made in regard to the 1993 assessment, claims will be allowed which are based on rent paid, or taxes payable, in 1993. No claims may be filed beginning with those based on rent paid, or property taxes payable, in 1994.

Also as an example, if a relative and an owner applied to the county in 1992 to have a parcel of homestead property reclassified as a relative homestead for the 1992 assessment, a timely homeowner's property tax refund claim filed in 1993, and based on property taxes payable in 1993, is not allowed.

Whenever a property no longer qualifies for the relative homestead classification, refund claims are again allowed beginning with the first year the taxes payable are not assessed as a relative homestead, and for claims based on rent paid in that year.

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