

Chapter 37

(Senate Bill 21)

An Act to modify tax refunds for elderly persons and persons with a disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 9-43-101 be AMENDED:

9-43-101. A municipality may waive or reduce special assessments levied against owner-occupied single family dwellings, if the head of the household is sixty-five years of age or older, or is disabled, or if the annual household income does not exceed the federal poverty level as updated annually on the Department of Social Services website. The terms used in this section are defined in ~~§ 10-18A-1~~ 10-6B-1.

Section 2. That § 10-1-47 be AMENDED:

10-1-47. The terms "United States Internal Revenue Code" and "Internal Revenue Code" mean the United States Internal Revenue Code as amended and in effect on January 1, 2025. This section applies to §§ 10-4-9.1, 10-4-9.2, 10-4-9.3, 10-4-9.4, 10-4-39, 10-6-157, and 10-43-10.1, and subdivisions 10-6A-1(7), 10-6B-1(5), ~~10-18A-1(6)~~, 10-43-10.3(6), and 10-45A-1(5).

Section 3. That § 10-4-24.11 be AMENDED:

10-4-24.11. To the extent that a dwelling or ~~part a portion~~ thereof is owned and occupied by a paraplegic or an individual with the loss or loss of use of both lower extremities, the individual's tax liability ~~shall~~ must be reduced as provided in §§ 10-4-24.12 and 10-4-24.13 on that portion of the dwelling, provided the dwelling was owned and occupied for the full calendar year prior to the year in which the taxes are due and receivable. The term, "household income," as used in §§ 10-4-24.12 and 10-4-24.13 is the same as defined in subdivision ~~10-18A-1(5)~~ 10-6B-1.

Section 4. That § 10-6A-11 be AMENDED:

10-6A-11. Property tax relief granted through the provisions of this chapter ~~shall~~ does not affect a person's eligibility ~~for a refund of property taxes as provided for in chapter 10-18A or~~ for a retail sales and service tax refund under the provisions of chapter 10-45A.

Section 5. That § 10-6B-15 be AMENDED:

10-6B-15. ~~No~~ A person who receives a property tax refund under ~~chapter 10-18A or~~ a retail sales and service tax refund under chapter 10-45A or a real property tax assessment freeze under chapter 10-6A may not be denied a property tax reduction under this chapter because of ~~such the~~ refund or freeze.

Section 6. That § 10-13-20 be AMENDED:

10-13-20. The provisions of this chapter may not be construed to deny a tax refund pursuant to ~~chapter 10-18A or~~ 10-45A.

Section 7. That § 10-45A-5 be AMENDED:

10-45A-5. The amount of any claim made pursuant to this chapter by a claimant from a household consisting solely of one person is determined as follows:

- (1) If the claimant's income is ~~ten thousand five hundred sixty six~~ seventeen thousand two hundred fifteen dollars or less, a sum of ~~two hundred fifty eight dollars~~ equal to the pro rata share of each eligible claimant

determined pursuant to § 10-45A-13, not to exceed five hundred dollars; and

- (2) ~~If the claimant's income is ten thousand five hundred sixty seven dollars and not more than sixteen thousand five hundred sixty six dollars, a sum of forty six dollars plus three and four tenths percent of the difference between sixteen thousand five hundred sixty six dollars and the income of the claimant; and~~
- (3) ~~If the claimant's income is more than sixteen thousand five hundred sixty six seventeen thousand two hundred fifteen dollars, no refund.~~

Section 8. That § 10-45A-6 be AMENDED:

10-45A-6. The amount of any claim made pursuant to this chapter by a claimant from a household consisting of more than one person is determined as follows:

- (1) ~~If household income is sixteen thousand one hundred eighty four~~ twenty-three thousand two hundred sixty-five ~~dollars or less, the a sum of five hundred eighty one dollars; equal to two times the pro rata share of each eligible claimant determined pursuant to § 10-45A-13, not to exceed one thousand dollars; and~~
- (2) ~~If household income is sixteen thousand one hundred eighty five dollars and not more than twenty two thousand four hundred eighty four dollars, a sum of seventy four dollars plus seven and eight tenths percent of the difference between twenty two thousand four hundred eighty four dollars and total household income; and~~
- (3) ~~If household income is more than twenty two thousand four hundred eighty four~~ twenty-three thousand two hundred sixty-five ~~dollars, no refund.~~

Section 9. That § 10-45A-7 be AMENDED:

10-45A-7. The secretary of revenue shall ~~prepare a table under which claims shall be determined. The amount of the claim as shown in the table for each bracket shall be~~ determine claim disbursements pursuant to this chapter, with each claim computed only to the nearest dollar.

Section 10. That § 10-45A-13 be AMENDED:

10-45A-13. ~~In the event that funds determining the pro rata share of each eligible claimant, the department shall divide the total amount appropriated are not sufficient to pay all claims authorized by this chapter, funds so appropriated shall be prorated to such by the number of claimants as who have timely filed.~~

For purposes of this section, the department shall consider a claimant from a household consisting solely of one person as one claimant, and the department shall consider a claimant from a household consisting of more than one person as two claimants.

Section 11. That § 10-6C-7 be REPEALED.

~~A person is not eligible for a refund of property taxes pursuant to chapter 10-18A if the person receives property tax relief pursuant to this chapter.~~

Section 12. That § 10-18A-1 be REPEALED.

~~Terms as used in this chapter, unless the context otherwise clearly requires, mean:~~

- (1) ~~"Department," the South Dakota Department of Revenue;~~
- (2) ~~"Disabled," persons receiving or having qualified to receive monetary payments, pursuant to Title II, X, XIV, or XVI of the Social Security Act, as amended, and in effect on January 1, 1974, for all or part of the year for which a refund is claimed;~~

- (3) ~~"Head of household," a married person, a single person, a widow or widower or a divorced person;~~
- (4) ~~"Household," the association of persons who live in the same dwelling, sharing its furnishings, facilities, and accommodations, but not including bona fide lessees, tenants, or roomers and boarders on contract;~~
- (5) ~~"Household income" all income received by all persons of a household while members of the household;~~
- (6) ~~"Income," the sum of adjusted gross income as defined in the United States Internal Revenue Code, as defined by § 10-1-47, and all nontaxable income, including the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, not including relief granted under this chapter, the gross amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability pensions, all payments received under the federal social security and state reemployment assistance or unemployment insurance laws, nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, and the gross amount of loss of time insurance, but not including gifts from nongovernmental sources, food stamps, or surplus foods, or other relief in kind provided by a public agency less real estate taxes payable on the applicant's principal residence for the year in which application is made. However, the reduction in the applicant's income for real estate taxes payable may not exceed four hundred dollars;~~
- (7) ~~"Secretary" the secretary of the South Dakota Department of Revenue;~~
- (8) ~~"Single family dwelling" a house, condominium apartment or manufactured home as defined in § 32-3-1 which is assessed and taxed as a separate unit including the platted lot upon which the structure is situated or one acre, whichever is less, and the garage, whether attached or unattached;~~
- (9) ~~"Tax year" or "taxable year" the year in which real property is assessed and the taxes levied thereon.~~

Section 13. That § 10-18A-1.1 be REPEALED.

~~The amount of the reduction in income allowed for taxes paid pursuant to subdivision 10-18A-1(6) shall be equal to the real property taxes paid on the principal residence of the claimant. If the residence is a single family dwelling, then the amount of the reduction shall equal the taxes paid on the residence structure, platted lot upon which the structure is located or one acre, whichever is less, and the garage, whether attached or unattached. If the residence is not a single family dwelling, then the reduction shall be equal to the amount of tax paid on or allocated to the structure and the platted lot upon which the structure is situated or one acre, whichever is less, used as a residence by the claimant including the garage, whether attached or unattached.~~

Section 14. That § 10-18A-2 be REPEALED.

~~Any person making application under the provisions of this chapter shall be entitled to a refund of the real property taxes due or paid on his single family dwelling according to the schedule provided in §§ 10-18A-5 and 10-18A-6, provided the following conditions are met:~~

- (1) ~~The head of a household shall be sixty five years of age or older or shall be disabled, prior to January first of the year in which the real property is assessed and the taxes levied thereon;~~
- (2) ~~The person claiming refund shall have owned, either in fee or by contract purchase, the real property for which the refund is claimed for at least three years or have been resident of the State of South Dakota for at least five years if not qualified under the three years' ownership limitation;~~

~~(3) A claim for refund can only be made for a single family dwelling as defined in subdivision § 10-18A-1(8).~~

Section 15. That § 10-18A-3 be REPEALED.

~~No person who received a refund of retail sales and service tax under the provisions of chapter 10-45A shall be eligible for a refund of real property taxes as provided in this chapter.~~

Section 16. That § 10-18A-4 be REPEALED.

~~The right to file a claim under this chapter shall be personal to the claimant, and shall not survive his death.~~

Section 17. That § 10-18A-5 be REPEALED.

~~The amount of refund of real property taxes due or paid for a single member household made pursuant to this chapter is according to the following schedule:~~

If household income is		The refund of real
at least:	but not more than	property taxes due
\$—0	\$10,566	35%
10,567	10,816	34%
10,817	11,066	33%
11,067	11,316	32%
11,317	11,566	31%
11,567	11,816	30%
11,817	12,066	29%
12,067	12,316	28%
12,317	12,566	27%
12,567	12,816	26%
12,817	13,066	25%
13,067	13,316	24%
13,317	13,566	23%
13,567	13,816	22%
13,817	14,066	21%
14,067	14,316	20%
14,317	14,566	19%
14,567	14,816	18%
14,817	15,066	17%
15,067	15,316	16%
15,317	15,566	15%
15,567	15,816	14%
15,817	16,066	13%
16,067	16,316	12%
16,317	16,566	11%
over 16,566		No refund

Section 18. That § 10-18A-6 be REPEALED.

The amount of refund of real property taxes due or paid for a multiple-member household made pursuant to this chapter is according to the following schedule:

If household income is		The refund of real property taxes due or paid is
at least:	but not more than	
\$—0	\$16,184	55%
16,185	16,534	53%
16,535	16,884	51%
16,885	17,234	49%
17,235	17,584	47%
17,585	17,934	45%
17,935	18,284	43%
18,285	18,634	41%
18,635	18,984	39%
18,985	19,334	37%
19,335	19,684	35%
19,685	20,034	33%
20,035	20,384	31%
20,385	20,734	29%
20,735	21,084	27%
21,085	21,434	25%
21,435	21,784	23%
21,785	22,134	21%
22,135	22,484	19%
over 22,484		No refund

Section 19. That § 10-18A-6.1 be REPEALED.

The head of household shall be eligible for the refund computed pursuant to the schedule in § 10-18A-6 if each of the following conditions are satisfied:

- (1) — The head of household is a widow or widower;
- (2) — The dwelling upon which the refund is claimed qualified for and received a refund pursuant to § 10-18A-6 in the year immediately preceding the death of the deceased spouse;
- (3) — The head of household has continued to live in the same dwelling;
- (4) — The head of household has not remarried.

Section 20. That § 10-18A-7 be REPEALED.

Claims for refund of real property taxes under this chapter shall be made annually on or before July first upon forms prescribed by the secretary of revenue. Forms shall be made available to county treasurers who shall, upon request of a claimant, assist the claimant in completing the application. In case of sickness, absence, or other disability of the claimant, or if other good cause exists, the secretary may extend for a period not to exceed six months the time for filing a claim.

Section 21. That § 10-18A-8 be REPEALED.

~~The applicant, at his election, shall not be required to record on his application the amount claimed by him. The reduction allowable to persons making the election shall be computed by the county auditor.~~

Section 22. That § 10-18A-9 be REPEALED.

~~Any application for reduction shall include such documentary evidence as the secretary of revenue deems necessary to assure validity of the application.~~

Section 23. That § 10-18A-10 be REPEALED.

~~Any claim for refund shall be signed and delivered to any officer authorized to take acknowledgments, or the county auditor or his deputy in the county where the real property is located.~~

Section 24. That § 10-18A-11 be REPEALED.

~~The secretary of revenue shall reimburse to any person eligible for payment under the provisions of this chapter. The reimbursement shall be paid out of appropriations for retail sales and service tax refunds to the elderly and disabled. Any claim for reimbursement by any person shall be paid within sixty days after the deadline, as prescribed in § 10-18A-7, upon forms prescribed by the secretary.~~

Section 25. That § 10-18A-12 be REPEALED.

~~If appropriations for refund of real property taxes to the elderly and disabled are not sufficient to pay all claims authorized by this chapter, funds so appropriated shall be prorated to such claims as have been timely filed.~~

Section 26. That § 10-18A-13 be REPEALED.

~~Any person aggrieved by the denial by the secretary of revenue in whole or in part of reduction claimed under this chapter, may within thirty days after receiving notice of such denial, demand and shall be entitled to a hearing, upon notice, before the secretary on the question.~~

Section 27. That § 10-18A-14 be REPEALED.

~~Filing an application for refund with fraudulent intent is a petty offense.~~

Section 28. That § 10-18A-15 be REPEALED.

~~The secretary of revenue may promulgate rules pursuant to chapter 1-26 concerning:~~

- ~~(1) The procedure for filing a refund claim;~~
- ~~(2) The requirements necessary to qualify for a refund; and~~
- ~~(3) The definition of income.~~

Section 29. That § 10-18A-16 be REPEALED.

~~If, after the distribution required by chapters 10-18A and 10-45A, there is twenty five thousand dollars or more remaining from the annual appropriation for refunds pursuant to such chapters, the secretary of revenue shall distribute the remaining revenue to the one thousand applicants with the least income as defined in subdivision 10-18A-1(6) or 10-45A-1(5). Each applicant shall receive an equal amount from the distribution made pursuant to this section. But in no instance may an applicant receive a distribution of more than one hundred dollars under this section. Any cost associated with the distribution provided in this section shall be paid from the revenue remaining from the appropriation for chapters 10-18A and 10-45A before any distribution pursuant to this section.~~

Section 30. That § 10-45A-2.1 be REPEALED.

~~No person who receives a refund of real property taxes under the provisions of chapter 10-18A shall be eligible for a refund of retail sales and service tax as provided in this chapter.~~

Signed March 4, 2026
