

**Subpart D. SENIOR CITIZENS PROPERTY TAX
OR RENT REBATE**

Chap.		Sec.
401.	ASSISTANCE	401.1
403.	FILING OF CLAIMS	403.1
405.	APPEAL PROCEDURE	405.1
407.	ADOPTION AND PROMULGATION OF REGULATIONS AND RULINGS	407.1

Authority

The provisions of this Subpart D issued under the Senior Citizens Rebate and Assistance Act (72 P. S. 4751-1—4751-12), unless otherwise noted.

Source

The provisions of this Subpart D adopted February 14, 1975, 5 Pa.B. 284, amended February 27, 1976, 6 Pa.B. 392, unless otherwise noted.

CHAPTER 401. ASSISTANCE

GENERAL PROVISIONS

Sec.
401.1. Definitions.

INCOME

401.11. Income limitations.
401.12. Losses.

HOMESTEAD

401.21. Purpose.
401.22. Limitations.

OWNERSHIP

401.31. Ownership.

401-1

CLAIMANTS

- 401.41. Number of claimants from each homestead.
- 401.42. Temporary absence of claimant.
- 401.43. Decedent's estates.

REAL PROPERTY TAX OR RENT ASSISTANCE

- 401.51. Claimants who rent from owners of real property exempt from real property taxes.
- 401.52. Claimants who rent and receive public assistance monies.
- 401.53. Property taxes or rent on occupied homestead owned or rented for part of calendar year.
- 401.54. Proration or rent paid to reflect ownership or rental interest.
- 401.55. Proration of taxes or rent paid to reflect eligibility.
- 401.56. Property taxes or rent paid for part of property used as homestead.
- 401.57. Multiple homestead.
- 401.58. Calculations involving fractional parts of a month, fractional parts of a year, or both.

CALCULATION OF ASSISTANCE

- 401.71. Table of rebate.
- 401.72. Source of funds.
- 401.73. Proportional reduction.

GENERAL PROVISIONS**§ 401.1. Definitions.**

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

Claimant—The term claimant shall be defined in accordance with the following:

(i) A claimant means an individual who has filed a claim for a rebate under the Senior Citizens Property Tax or Rent Rebate Act and is one of the following:

(A) Sixty-five years of age or over as of December 31 of the calendar year for which a property tax rebate or a rent rebate in lieu of property taxes is claimed.

(B) Whose spouse, if a member of the household, was 65 years of age or over as of December 31 of the calendar year for which a property tax rebate or a rent rebate in lieu of property taxes is claimed.

(C) Was a widow, or widower after January 1, 1972 only, and was 50 years of age or over as of December 31 of the calendar year for which a property tax rebate or a rent rebate in lieu of property taxes is claimed; “widow” or “widower” shall mean the surviving wife, or the surviving husband, as the case may be, of a deceased individual and who has not remarried.

(D) Was a permanently disabled person during some part of the calendar year for which a property tax rebate or a rent rebate in lieu of property taxes is claimed. The term “permanently disabled person” shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to continue indefinitely.

(ii) The phrase “as of December 31 of the calendar year for which a property tax rebate or a rent rebate in lieu of property taxes is claimed” means at any time during that calendar year.

(iii) A claimant shall always own and occupy or rent and occupy the homestead on which a claim for a property tax rebate or a rent rebate in lieu of property taxes is filed.

(iv) A claim for a property tax rebate or a rent rebate in lieu of property taxes may be filed by the personal representative of a decedent’s estate if, and only if, the decedent lived during some part of the year next succeeding the calendar year for which a rebate is claimed. A surviving spouse will be eligible for a property tax rebate for those months the surviving spouse and the deceased spouse occupied the homestead and such homestead was the separate property of the decedent.

Homestead—The term homestead shall be defined in accordance with the following:

(i) A dwelling whether owned or rented and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, occupied by the claimant.

(ii) Premises occupied by reason of stock ownership or lease in a cooperative housing corporation. A claimant who owns stock in a cooperative housing corporation or association is a renter and not an owner, as the claimant does not own title to real property. That part of the land attributable to a tenant in a cooperative housing corporation shall be determined by the proportion that the value of the tenant’s stock bears to the total outstanding stock of the corporation.

(iii) Mobile homes and other similar living accommodations whether owned or rented if assessed as realty for local property tax purposes and the land, whether owned or rented, upon which they are situated.

Example. Claimant H and his wife W own a mobile home on which they are required to pay \$200 a year for real property taxes. The couple rent the land on which the mobile home is

located from Y Corporation for \$400 a year. Claimant H may file a claim for a property tax rebate up to \$200 for the real property taxes paid on the mobile home. Claimant H is also eligible for a rent rebate in lieu of property taxes up to \$80 (20% times \$400). However, the maximum amount of rebate payable to any one household for one year is \$200.

(iv) The residential part of a multipurpose building together with that part of the land attributable to the premises occupied by the claimant, whether owned or rented.

(v) That part of a multidwelling building which constitutes the claimant's residence together with that part of the land attributable to the premises occupied by the claimant, whether owned or rented.

(vi) Premises occupied by reason of the claimant's ownership or rental of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, if the claimant is required to pay a pro rata share of the property taxes levied against the association's land.

(vii) Premises occupied by a claimant if he is required by law to pay a property tax by reason of his ownership or rental, including a possessory interest, in the dwelling, the land, or both.

(viii) For 1971 and 1972, land which is reasonably necessary for use of the dwelling as a home must not exceed 2 acres.

Household income—The term household income shall be defined in accordance with the following:

(i) As applied only to those claims filed for 1971 and 1972 property tax rebates or rent rebates in lieu of property taxes, household income means all income, as described in §§ 401.11 and 401.12 (relating to income limitations; and losses) and the definition of income as set forth in this section, received by the claimant and all other persons while residing in the homestead during a calendar year in which real property taxes or rent are due and payable, but shall not include the income of residents who are not related to the claimant and who pay reasonable, fixed rents. The income of a member of the household shall be included in household income even if the claimant did not receive any benefit from the income.

Example 1. Members of the household are claimant H and his wife W. Claimant H received a pension of \$1,200 during the calendar year. W received \$800 in Social Security benefits during the calendar year. Household income is \$2,000.

Example 2. Members of the household during the entire year are claimant H and his wife W. Claimant's son S was a member of the household during the first 2 months of the year. R, not related to claimant, rents a room in claimant's home. Claimant H had an income of \$3,500, including R's rental payments. W had no income for the calendar year. S had income of \$700

while he was a member of the household. R had income of \$9,000. The household income is \$4,200 (\$3,500 + \$700).

(ii) Effective beginning with those claims filed for 1973 property tax rebates or rent rebates in lieu of property taxes and all claims filed thereafter, household income means the total annual income, as described in §§ 401.11 and 401.12 and the definition of “income” as set forth in this section, received by the claimant and all income received by the claimant’s spouse while he resided in the homestead during a calendar year in which real property taxes or rent are due and payable. Household income does not include the income of claimant’s children or others.

Example 1. Members of the household are claimant H, his wife W and their son S. Claimant H received a pension of \$1,200 during the calendar year. W received \$800 in Social Security benefits during the calendar year. S received an income of \$6,000 during the calendar year. The total household income for the calendar year is \$2,000 (\$1,200 + \$800 = \$2,000).

Example 2. Husband H resides in the homestead, wife W was confined to a nursing home for the last 8 months of the calendar year for which rebates are being claimed. Both H and W are qualified claimants and may file for rebates. H as a property owner and W as a renter for 8 months. H need not include the income of W received while she was in the nursing home, but must include all W’s income received during the 4 months she resided in the homestead.

Example 3. Claimant A and her sister B both are over 65 years of age and reside together in their homestead. Either A or B, but not both, may file for a rebate and need only include her income as the total household income for 1973.

Income—Income from whatever source derived, including but not limited to the following:

- (i) Salaries.
- (ii) Wages.
- (iii) Bonuses.
- (iv) Commissions.
- (v) Income from self-employment or partnership income.
- (vi) Alimony.
- (vii) Support money.
- (viii) Cash public assistance and relief.
- (ix) The gross amount of pensions or annuities including railroad retirement benefits.
- (x) The gross amount of cash benefits received under the Federal Social Security Act, except Medicare benefits.

- (xi) Benefits received under State unemployment insurance statutes.
- (xii) Veteran's disability payments.
- (xiii) Interest, including interest received from the Federal government, State government, or an instrumentality or political subdivision thereof.
- (xiv) Realized capital gains except as provided in § 401.11.
- (xv) Rental income.
- (xvi) Workmen's compensation and the gross amount of loss of time insurance benefits, except those benefits granted under section 306(c) of The Pennsylvania Workmen's Compensation Act (77 P. S. § 513).
- (xvii) Life insurance benefits and proceeds, except as provided in § 401.11.
- (xviii) Gifts or bequests of cash or property, other than transfers by gift between members of a household, in excess of a total value of \$300.
- (xix) Money or the fair market value of a prize such as an automobile or a trip won in a lottery, a contest or by a form of gambling.
- (xx) Royalties.
- (xxi) Dividends.

Real property taxes—The term real property taxes shall be defined in accordance with the following:

- (i) All taxes on a homestead which are due and payable during the calendar year for which a property tax rebate is claimed. Real property taxes are considered to be "due and payable" at the earliest moment, as indicated on the tax bill, that the real property taxes may be paid to the taxing jurisdiction. Taxpayers may receive credit for all those real property taxes which are due and payable during a calendar year as long as such taxes are actually paid before the claim for a property tax rebate is filed. However, a rebate may not be granted on an amount of real property taxes greater than the amount of real property taxes actually paid.

Example 1. Claimant C receives his borough property tax bill on July 1, 1971, and his school district property tax bill on September 1, 1971. Both property tax bills may be paid immediately but must be paid before the end of calendar year 1971 in order to avoid any interest or penalty charges. Claimant C may receive credit for both these property tax bills, exclusive of all interest or penalty charges, as long as such bills were actually paid prior to the filing of his property tax rebate claim in 1972.

Example 2. Claimant A receives both his borough and school district property tax bills during calendar year 1971. Both bills may be paid with a 2% discount by September 1, 1971. However, the taxpayer may pay without discount in four equal installments, the last of which is not due until March 30, 1972. As these property taxes were due and payable during 1971, if

the claimant is to receive the 2% discount, claimant A may receive credit for these property taxes as long as such taxes were paid prior to the time when he filed his claim for a property tax rebate in 1972, even if such bills were not paid until March 30, 1972. However, any interest or penalty charges shall be deducted.

(ii) The term real property tax does not include any of the following items:

- (A) Municipal assessments.
- (B) Interest.
- (C) Delinquent charges or penalties.
- (D) Per capita charges of any kind.

(iii) If the items set forth in subparagraph (ii) of this definition are so included, the property tax bills shall be adjusted by eliminating these items.

(iv) The amount of a discount which may be lost through failure to pay real property taxes early is not considered to be interest, a delinquent charge, or a penalty; therefore, a taxpayer may receive full credit for real property taxes which have been paid on time even though he did not pay his taxes early enough to receive a discount.

Rent rebate in lieu of property taxes and rent paid—The term rent rebate in lieu of property taxes and rent paid shall be defined in accordance with the following:

(i) An amount equal to 20% of the gross amount actually paid to a landlord in cash or its equivalent in any calendar year in connection with the occupancy of a homestead by a claimant, irrespective of whether such amount constitutes payment solely for the right of occupancy or otherwise.

(ii) The term rent paid is that amount paid by or on behalf of a tenant to a landlord in connection with the right of occupancy of a homestead. Only those charges which are reasonably necessary for use of the dwelling as a home may be included as rent paid. Thus, any charges for medical services rendered or food provided by the landlord may not be included. Utility charges may be included as rent paid if they are included in the amount paid to a landlord in connection with the right of occupancy.

Example. For one year, claimant A rented of a duplex owned by landlord L. As rent, A paid \$100 per month to L which included payment for A's water and electricity. In addition, A paid \$10 per month for a telephone to the Bell Telephone Company. A also paid to L of each month's gas bill. Claimant A may only claim a rent rebate in lieu of property taxes on \$1200 (12 x \$100). As both the telephone and the gas charges were paid separately from the rent, they may not be included as rent paid.

Source

The provisions of this § 401.1 amended July 19, 1985, effective July 20, 1985, and will apply retroactively to January 1, 1985, 15 Pa.B. 2653. Immediately preceding text appears at serial pages (36171) to (36176).

Cross References

This section cited in 61 Pa. Code § 401.71 (relating to table of rebate).

INCOME**§ 401.11. Income limitations.**

Income does not include the following:

- (1) Surplus food or other noncash relief, including food stamps, supplied by a government agency.
- (2) Property tax rebate payments, rent rebate payments, and inflation dividends received under the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12).
- (3) Medicare benefits.
- (4) The first \$5,000 of the total of death benefit payments.
- (5) The difference between the purchase price of a person's residence and its selling price, to the extent that the person uses the proceeds from the sale of that residence to purchase a different residence within 2 years of the sale of the former residence.
- (6) The amount of damages received, whether by civil suit or settlement agreement, on account of personal injuries. Damages received means an amount received through prosecution of a legal suit, action or other claim based on tort or tort type rights, or through a settlement agreement entered into in lieu of litigation, except to the extent that the amount duplicates reimbursements previously received. Damages include black lung benefits and benefits granted under section 306(c) of The Pennsylvania Workmen's Compensation Act (77 P. S. § 513).
- (7) Payments provided to eligible low income households under the Commonwealth's Low Income Home Energy Assistance Program.
- (8) With reference to client payments received by home providers of domiciliary care program administered by the Department of Aging under the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-12), that portion of the payments which for a specific income year, does not exceed the actual expenses of providing domiciliary care services.

Source

The provisions of this § 401.11 amended July 19, 1985, effective July 20, 1985, and will apply retroactively to January 1, 1985, 15 Pa.B. 2653. Immediately preceding text appears at serial pages (36176) to (36177).

Cross References

This section cited in 61 Pa. Code § 401.1 (relating to definitions).

§ 401.12. Losses.

Losses incurred in the operation of a business may only be used to offset gains from the operation of a business in the year during which the loss was incurred. Losses incurred in the operation of rental property may only be used to offset gains from the operation of rental property in the year during which the loss was incurred. Capital losses, whether long or short term, may only be used to offset capital gains for the year during which the loss was incurred.

Cross References

This section cited in 61 Pa. Code § 401.1 (relating to definitions).

HOMESTEAD**§ 401.21. Purpose.**

The purpose of the term “homestead” is to determine the portion of the claimant’s property for which a rebate may be granted. A rebate is allowable only on that portion of the claimant’s property which is used as the home of the claimant, his spouse and all other individuals who are regarded as members of the claimant’s household. The homestead shall be located in the Commonwealth and shall be owned and occupied or rented and occupied by the claimant during the period of the calendar year for which a rebate is claimed.

§ 401.22. Limitations.

(a) If the property of the claimant used by him as his home is a part of a large parcel of property, such as a farm, only the dwelling and so much of the land as is reasonably necessary for use of the dwelling as a home shall constitute the claimant’s homestead.

Example. Claimant A lives on a 20-acre farm. A’s dwelling is surrounded by a ½ acre yard and the remaining land is used for farming. C’s homestead is the dwelling and the ½ acre yard.

(b) When a claimant owns or rents two dwellings on one lot or a multi-family dwelling, homestead means only that dwelling or family unit occupied by the claimant together with that portion of the land which is reasonably necessary for use of the dwelling as a home. The method of apportioning the property taxes or rent paid between the amount attributable to the homestead and the amount attributable to the other part of the property is set forth in § 401.56 (relating to property taxes or rent paid for part of property used as homestead).

Example 1. Claimant B owns a duplex situated on a one-acre lot. He lives in one unit and his son lives in the other unit. B’s homestead is the ½ of the duplex occupied by B and ½ of the lot.

Example 2. Claimant C rents a two-story house which has been remodeled into two apartments. The house is situated on a one-acre lot. C lives in the lower apartment and sublets the upper apartment and ½ of the lot. C's homestead is the lower apartment and ½ of the lot.

(c) If a husband and wife are both residents in the same nursing home or similar institution, each will be considered an occupant of a separate homestead.

OWNERSHIP

§ 401.31. Ownership.

(a) An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy, tenancy in common or tenancy by the entirety. An individual who occupies a residence in a condominium or other similar living accommodation whereby he owns title to the premises is an owner.

(b) A contractual obligation to pay property taxes on property owned by another does not qualify an individual for a property tax rebate since he is not the owner of the property.

(c) A claimant will be eligible for a property tax rebate if he and his spouse occupy the homestead and the homestead is the separate property of either the claimant or his spouse.

CLAIMANTS

§ 401.41. Number of claimants from each homestead.

Only one claimant from a homestead each year shall be entitled to a property tax rebate or rent rebate in lieu of property taxes. If two or more persons are able to meet the qualifications for a claimant, they may determine who the claimant shall be. If they are unable to agree, or both file a claim in 1 year, the Department shall determine to whom a rebate is to be paid.

§ 401.42. Temporary absence of claimant.

(a) A claimant whose home is his principal place of abode is not disqualified from receiving a rebate or any part of the rebate due to temporary absences from his home.

Example 1. Claimant A owns and occupies or rents and occupies his home in Pennsylvania. Every summer A vacations in the west. He stays for an extended trip of a month or two and returns to his home in Pennsylvania. Claimant A is a member of the household constructively occupying his home for the entire year provided that A has not rented out his home or apartment for the period he was absent.

Example 2. Claimant B owns and occupies his home in Pennsylvania. In March, B enters a hospital due to illness. In May, B returns home. Claimant

B is a member of the household constructively occupying his own home for the entire year provided that B has not rented out his home or apartment for the period he was absent.

Example 3. Claimant C owns and occupies his home in Pennsylvania. C becomes ill and unable to care for himself. On April 10, C moves to a nursing home in Arizona to receive full-time care. C remains in the nursing home for the remainder of the year. C's absence is not temporary. C is considered to have resided in his home only during January, February and March.

(b) A claimant who owns and occupies or rents and occupies his home for only a part of a year may file a claim for a property tax rebate or rent rebate in lieu of property taxes based on the length of his ownership and occupancy or rental and occupancy. Reference should also be made to §§ 401.51—401.58 (relating to real property tax or rent assistance).

Cross References

This section cited in 61 Pa. Code § 401.53 (relating to property taxes or rent on occupied homestead owned or rented for part of calendar year).

§ 401.43. Decedent's estates.

(a) A claim for a property tax rebate or rent rebate in lieu of property taxes may be filed by the personal representative of a decedent's estate if, and only if, the decedent were alive on or after January 1 of the year next succeeding the calendar year for which a rebate is claimed.

(b) Any rebate due as the result of a timely filed claim submitted and signed by an eligible claimant who dies after the filing, but before the final payment of his claim will be payable to the spouse of the deceased or to the estate of the deceased or to the personal representative of the decedent's estate upon presentation to the Department of a "short certificate" authorizing the personal representative to act in behalf of decedent's estate, or will be payable in accordance with a decree of the Orphans' Court directing distribution of decedent's property, or will be payable to an individual who submits proof in the form of receipts and affidavit that:

(1) The individual requesting payment has paid decedent's funeral bill in an amount equal to or greater than the amount of property tax or rent rebate to which the decedent was entitled.

(2) There have been no proceedings to create an estate and no such proceedings are contemplated.

REAL PROPERTY TAX OR RENT REBATES**§ 401.51. Claimants who rent from owners of real property exempt from real property taxes.**

A claimant who is a tenant of an owner of real property which is exempt from the payment of real property taxes is not eligible to receive a rent rebate in lieu of property taxes unless the owner has made or was obligated to make a payment in lieu of taxes on the property in which the claimant resided for the year for which a rent rebate is claimed.

Cross References

This section cited in 61 Pa. Code § 401.42 (relating to temporary absence of claimant).

§ 401.52. Claimants who rent and receive public assistance monies.

(a) A claimant who is a renter shall not be eligible for a rent rebate in lieu of property taxes during those months within which he receives public assistance monies from the Department of Public Welfare. For the calendar year 1974 and thereafter, the receipt of Supplemental Security Income payments (SSI) will not preclude a renter from receiving a rent rebate in lieu of property taxes, even though the renter had previously received public assistance from the Department of Public Welfare.

(b) Receipt of food stamps, medical assistance or blind pension from the Department of Public Welfare will not preclude a renter from claiming and receiving a rent rebate in lieu of property taxes as neither food stamps, Medical Assistance nor blind pensions necessarily involve the receipt of public assistance moneys.

§ 401.53. Property taxes or rent on occupied homestead owned or rented for part of calendar year.

(a) A property tax rebate or rent rebate in lieu of property taxes is limited to the amount of property taxes, or 20% of the rent paid to a landlord, attributable to the period of any calendar year during which a claimant owned and occupied or rented and occupied the homestead. Hence, when a claimant owned and occupied or rented and occupied the homestead for only a part of the calendar year for which a rebate is claimed, except as provided in § 401.42 (relating to temporary absence of claimant), property taxes or rent paid shall be determined on only that portion of the calendar year during which the homestead was owned and occupied or rented and occupied by the claimant.

(b) Where the claimant vacates his homestead during a calendar year, except as provided in § 401.42, the amount of property taxes or rent paid attributable to that part of the calendar year during which the homestead was owned and occupied or rented and occupied by the claimant and his household shall be determined by multiplying the total amount of the property taxes or rent paid for the

entire calendar year by the percentage of 12 months that the homestead was owned and occupied or rented and occupied by the claimant and his household.

(c) The method described in subsection (b) shall also apply where the homestead is purchased during a calendar year and is subsequently occupied by the claimant and his household. The property taxes shall be determined by multiplying the total amount of the property taxes for the entire calendar year by the percentage of 12 months that the homestead was owned and occupied by the claimant and his household.

Example. Claimant H and his wife W owned and occupied their home in Pennsylvania for many years. On September 30, they moved from the home and rented an apartment for \$100 a month. The home was listed for sale and was sold on November 30 of the same year. Property taxes for the year, exclusive of municipal assessments, delinquent charges, and interest were \$240. In the closing settlement statement, H was charged with \$220 and the remainder was charged to the buyer. Although owned by the claimant for 11 months of the year, the homestead was only occupied by the claimant for nine months of the calendar year, therefore, the amount of property taxes on which the claimant is eligible to receive a property tax rebate is \$180 (75% x \$240). The claimant is also eligible to receive a rent rebate in lieu of property taxes for the three months during which he rented and occupied the apartment; the maximum amount of rent rebate in lieu of property taxes being \$60, that is, 20% times the \$300 rent paid for October, November, and December. However, the total amount of rebate payable to claimant H for the calendar year may not exceed \$200.

Cross References

This section cited in 61 Pa. Code § 401.58 (relating to calculations involving fractional parts of a month, fractional parts of a year, or both).

§ 401.54. Proration of taxes or rent paid to reflect ownership or rental interest.

When a homestead is owned or rented by two or more individuals and one or more of such persons is not qualified to be a claimant under the Senior Citizens Property Tax or Rent Rebate Act, "real property taxes" or "rent paid" shall include only that part of the real property taxes or rent paid which reflect the ownership or rental interest of the claimant and the other members of the household who meet the qualifications of a claimant. The ownership or rental interest of the claimant will be deemed to include the ownership or rental interest, if any, of the claimant's spouse. Where title to property is held by a claimant and another or others, either as tenants in common or as joint tenants, or where a rental interest in property is held by a claimant and another or others, the share of each ten-

ant in the property will be deemed to be equal, unless it is proven that the interests in question are not equal, in which event the claimant's proportionate share shall be as proven.

Example 1. Claimant H and W, his wife and their son S own the homestead as tenants in common. H and W live in the homestead. S lives elsewhere and is not a member of the household. In this case, "real property taxes" means an amount equivalent to $\frac{1}{2}$ of the taxes on the homestead since this amount reflects the ownership interest of the claimant and his spouse as H and W are deemed to hold the property as tenants by entirety. Since son S does not reside in the household, he would not qualify as a claimant and his $\frac{1}{2}$ ownership interest may not be included in the calculation of "property taxes paid."

Example 2. Claimant A, a disabled person qualifying for a rent rebate in lieu of property taxes and B, his nonqualifying brother, jointly lease an apartment in which they both reside. In this instance, rent paid means $\frac{1}{2}$ of the total rent since this amount would reflect the rental interest of claimant A.

§ 401.55. Proration of taxes or rent paid to reflect eligibility.

The Department shall apportion the rent paid or real property taxes to reflect a claimant's eligibility if the claimant is one of the following:

- (1) A widow or widower between 50 and 64 years of age during the calendar year or part thereof for which a rebate is claimed but who remarries during the calendar year.
- (2) A permanently disabled person during the calendar year or part thereof for which a rebate is claimed but whose disability is lost during such calendar year.
- (3) A renter who receives public assistance monies from the Department of Public Welfare for part of the calendar year for which a rent rebate in lieu of property taxes is claimed.

Example 1. Claimant A is a widow who reaches the age of 50 on March 1. On April 1, she remarries. A is eligible for a property tax rebate or rent rebate in lieu of property taxes for 3 months (January, February and March). Therefore, only $\frac{1}{4}$ of A's property taxes or rent paid may be used in computing her rebate.

Example 2. Claimant B is 52 years old and became a widower on December 25, 1972. Claimant B is eligible to receive a rebate on his total 1972 property taxes or rent paid.

Example 3. Claimant C becomes permanently disabled on March 15. On July 1, C makes a miraculous recovery. C is eligible for a property tax rebate or rent rebate in lieu of property taxes for 6 months (January 1—June 30th). Therefore, $\frac{1}{2}$ of C's property taxes or rent paid may be used in computing his rebate.

Example 4. Claimant D, 75 years of age, rents his apartment for the entire year 1972. D receives public assistance moneys for October, November, and December of 1972. Claimant D is eligible for a 1972 rent rebate in lieu of property taxes based on $\frac{3}{4}$ of his rent paid.

Cross References

This section cited in 61 Pa. Code § 401.58 (relating to calculations involving fractional parts of a month, fractional parts of a year, or both).

§ 401.56. Property taxes or rent paid for part of property used as homestead.

(a) Where the dwelling constituting the claimant's home and the land surrounding it is in excess of that which is reasonably necessary for use of the dwelling as a home, the amount of property taxes or rent paid used in computing the claimant's rebate will be limited to the amount of property taxes or rent paid attributable to that amount of land which is reasonably necessary for use of the dwelling as a home.

(b) Land which is "reasonably necessary for use of the dwelling as a home" includes land surrounding the home which is used for the following purposes:

(1) Yard.

(2) Flower garden.

(3) Recreational area, which may include a swimming pool, putting green, tennis courts, stable and grazing area for horses or ponies used for recreational purposes by members of claimant's family.

(4) Land on which fruit or vegetables are grown or livestock or fowl raised for personal consumption by claimant and claimant's family as opposed to being sold commercially or for a profit.

(5) Land not to exceed a reasonable number of acres the sole purpose of which is to provide privacy to the homeowner and his family, as for example, a field or stand of trees between the residence and a roadway. However, land used for commercial farming or for any other commercial purpose is not reasonably necessary for the use of the dwelling as a home.

(c) Whenever the parts of the land are not substantially of the same value, the ratio of the market value or assessed value of that land which is reasonably necessary for use of the dwelling as a home to the market value or assessed value of the entire parcel of land shall be used to determine the property taxes or rent paid on the land used for the homestead.

Example 1. Claimant A owns 8 acres of land of which each acre is of substantially the same value. Two acres of land surrounding his house are reasonably necessary for use of the dwelling as a home. Property taxes are \$240 for the eight acres of land and \$200 for the dwelling. Property taxes for the land necessary for use of the dwelling as a home are $\frac{1}{4} \times \$240 = \60 . In addition, the property taxes on the dwelling (\$200) will be included.

Example 2. Claimant B rents 30 acres of land. Five acres of land surrounding the house are reasonably necessary for use of the dwelling as a home. The other 25 acres are utilized as a commercial farm. The commercial farm accounts for 75% of the total market value of the 30 acres of land. Rent for the 30 acres and dwelling is \$1,000 per year. Rent for the dwelling and land necessary for use of the dwelling as a home is 25% x \$1,000 = \$250.

(d) In the case of a multi-dwelling building, in which each unit is substantially of the same value, the property taxes or rent paid attributable to the unit used as the claimant's homestead may be determined on the basis of the proportion which the claimant's unit bears to the total number of units in the building.

Example. Claimant J owns a three-story house which has been remodeled into three apartments of equal size. Claimant J rents out the upper two apartments and lives in the lower apartment. Property taxes for the entire building are \$330. Property taxes on the land are \$120. Property taxes on J's apartment are \$110 ($\frac{1}{3}$ of \$330). The taxes on that portion of the land attributable to J are \$40 ($\frac{1}{3}$ of \$120). The total amount of property taxes on J's homestead is, therefore, \$150 (\$110 + \$40).

(e) In the case of a multi-dwelling building in which the value of each unit is not substantially the same, the property taxes or rent paid attributable to the claimant's home shall be determined by the proportion which the market value or assessed value of claimant's home bears to the market value or assessed value of the building.

Example. Claimant B owns a building. The front portion is used as a grocery store and there is a three-room apartment in the rear. B occupies the apartment. The assessed values of the grocery store and the apartment are \$4,000 and \$1,000, respectively. The property taxes on the entire building are \$200. There is also a small yard in the rear of the building which is used jointly by B and the operator of the grocery store. The grocery store portion of the building is situated on $\frac{3}{4}$ of the land on which the building stands. The property taxes on this land are \$100. The property taxes on B's apartment are \$40 ($\frac{1}{5}$ x \$200). The property taxes on the land are \$25 ($\frac{1}{4}$ x \$100). Therefore, the total property taxes on B's homestead are \$65.

(f) The inclusion of property taxes or rent paid as a business expense for income tax purposes precludes a claimant from using these payments as a basis for a property tax rebate or rent rebate in lieu of property taxes.

Example. Claimant A's total property taxes on his home for the year 1973 are \$250. A carries on a business in his home, and on his 1973 profit and loss statement for income tax purposes claims \$200 as a tax expense of his business. Claimant A may only receive a property tax rebate on a maximum of \$50.

Cross References

This section cited in 61 Pa. Code § 401.22 (relating to limitations).

§ 401.57. Multiple homestead.

(a) Where a claimant changes his homestead during the calendar year for which a property tax rebate is claimed, the amount of property tax is determined by adding together the pro rata shares on each homestead for the period in which each homestead was owned and occupied by the claimant.

Example 1. Claimant C owns and occupies homestead No. 1 until March 31. C buys and occupies homestead No. 2 on April 1 and lives there for the remainder of the year. The total property taxes on homestead No. 1 are \$200 and C's share of such taxes is \$50 ($1/4 \times \200). The total property taxes on homestead No. 2 are \$100 and C's pro rata share of such taxes is \$75 ($3/4 \times \100). Therefore, C may only claim \$125 ($\$50 + \75) as his total property taxes when claiming a property tax rebate.

Example 2. Claimant R owns and occupies his home until June 30. The property taxes on this property amount to \$400 for the entire year. On July 1, R moves into an apartment for which he pays \$100 per month in rent. R's pro rata share of property taxes is \$200 ($1/2 \times \400) and R's rent paid equals \$600 (6 months \times \$100). Therefore, R will be required to compute his property tax rebate using Table A and his rent rebate in lieu of property taxes using Table B. Reference should also be made to § 401.71 (relating to table of rebate).

(b) Where a claimant has paid rent for more than 12 months in 1 year and the Department is not made aware of the amount of rent paid for those months during which the claimant occupied the premises, the amount of rent paid is computed by multiplying the average rent for the year (total amount of rent reported divided by the total number of months for which rent was paid) by 12 months.

§ 401.58. Calculations involving fractional parts of a month, fractional parts of a year, or both.

(a) When a claimant is required to prorate the amount of property taxes or rent paid on which a property tax rebate or rent rebate in lieu of property taxes may be granted, such as where the homestead is owned and occupied or rented and occupied for less than the full calendar year as provided in § 401.53 (relating to property taxes or rent on occupied homestead owned or rented for part of calendar year), or when a widow or widower remarried during the calendar year as provided in § 401.55 (relating to proration of taxes or rent paid to reflect eligibility), or when a permanently disabled person loses the disability during the calendar year as provided in § 401.55, or when a renter received public assistance moneys from the Department of Public Welfare for less than 12 months of the calendar year, the following percentages shall be applicable to the number of months during which the claimant was qualified for a property tax rebate or rent rebate in lieu of property taxes.

<i>Number of months homestead was owned and occupied or rented and occupied during the calendar year or during which claimant was eligible</i>	<i>Percentage</i>
1	8
2	17
3	25
4	33
5	42
6	50
7	58
8	67
9	75
10	83
11	92
12	100

(b) For the purposes of the calculations required under this chapter fractional parts of the month are disregarded. If the claimant owned and occupied or rented and occupied his homestead for more than $\frac{1}{2}$ of 1 month, or a widow or widower or disabled person retained such status for more than $\frac{1}{2}$ of 1 month, the claimant may receive rebate on those property taxes or rent, if actually paid, applicable to the entire month. Conversely, if the claimant owned and occupied or rented and occupied the homestead for or $\frac{1}{2}$ or less than $\frac{1}{2}$ of the month, or a widow or widower or disabled person retained such status for $\frac{1}{2}$ or less than $\frac{1}{2}$ of the month, such part of the month shall be disregarded in determining the property taxes or rent paid on which rebate may be granted.

(c) In determining whether assistance may be granted on the property taxes or rent, if actually paid, applicable to the full month, the following rules shall apply:

- (1) Twenty-eight or 29 day month-homestead owned and occupied or rented and occupied or claimant was eligible for more than 14 days.
- (2) Thirty or 31 day month-homestead owned and occupied or rented and occupied or claimant was eligible for more than 15 days.

Source

The provisions of this § 401.58 amended February 20, 1981, effective June 23, 1979, 11 Pa.B. 726. Immediately preceding text appears at serial pages (36187) to (36188).

CALCULATION OF REBATE

§ 401.71. Table of rebate.

(a) The amount of any claim for a property tax rebate for real property taxes due and payable during the calendar years 1971 and 1972, or a rent rebate in lieu of property taxes, as defined in § 401.1 (relating to definitions), for rent due and payable during calendar 1972 shall be determined in accordance with the following table:

<i>Household Income</i>	<i>Percentage of Real Property Taxes or Percentage of Rent Rebate in Lieu of Property Taxes Allowed as Rebate</i>
\$0-\$ 999	100%
1000- 1499	90%
1500-1999	80%
2000-2499	70%
2500-2999	60%
3000-3499	50%
3500-3999	40%
4000-4999	30%
5000-5999	20%
6000-7499	10%

(b) The amount of any claim for a property tax rebate or rent rebate in lieu of property taxes as defined in § 401.1, for real property taxes or rent due and payable during the calendar year 1973 and thereafter shall be determined in accordance with the following table:

<i>Household Income</i>	<i>Percentage of Real Property Taxes or Percentage of Rent Rebate in Lieu of Property Taxes Allowed as Rebate</i>
\$0-\$2999	100%
3000- 3499	90%
3500- 3999	80%
4000- 4499	70%
4500- 4999	60%
5000- 5499	50%

<i>Household Income</i>	<i>Percentage of Real Property Taxes or Percentage of Rent Rebate in Lieu of Property Taxes Allowed as Rebate</i>
5500- 5999	40%
6000-6499	30%
6500-6999	20%
7000-7499	10%

(c) The “percentage” is based upon “household income” (column on left) as defined in § 401.1. The percentage of real property taxes or rent rebate in lieu of property taxes allowed as rebate (column on right) multiplied by the real property taxes or rent rebate in lieu of property taxes as defined in § 401.1, determines the amount of rebate allowed.

(d) No claim shall be allowed if the amount of rebate computed in accordance with this section is less than \$10, and the maximum amount of rebate payable shall not exceed \$200.

Cross References

This section cited in 61 Pa. Code § 401.57 (relating to multiple homestead).

§ 401.72. Source of funds.

Expenses, salaries, and other costs incurred in the administration of the Senior Citizens Property Tax or Rent Rebate Act and approved claims shall be paid from the State Lottery Fund established by the act of August 26, 1971 (P. L. 351, No. 91) (72 P. S. §§ 3761-1—3761-15).

§ 401.73. Proportional reduction.

In the event that the total amount of the claims and administrative expenses exceeds the amount in the State Lottery Fund in any one year, the amount allowed as a property tax or rent rebate shall be reduced in the proportion that the amount of such fund bears to the total amount of valid claims and administrative expenses in any one year. For the fiscal year beginning July 1, 1975, the amount in the State Lottery Fund shall include funds available including revenue estimated to be available for the purposes of administrative expenses and claims.

[Next page is 403-1.]