

This memorandum supersedes memorandum numbered TSB-M-78-(5)-I(Rev) dated December 7, 1978 which should be destroyed.

1978 Legislation

Real Property Tax Circuit Breaker Credit

Chapter 70 of the Laws of 1978, enacted April 14, 1978, has provided a Real Property Tax Circuit Breaker Credit under section 606(e) of the New York State Tax Law. The taxpayer or spouse must be a resident of New York State for the entire year and must live in the same residence, either owned or rented, for at least 6 months to be entitled to the credit.

"Residence" means a dwelling that is owned or rented, with up to 1 acre of land around it, that is located in New York State. A condominium or cooperative and rental units within a single dwelling constitute a residence. A trailer or mobile home is considered a residence, if it qualifies as real property under the Real Property Tax Law and is used exclusively for residential purposes.

The credit is for a portion of real property tax paid or a portion of rent paid which is considered to be payments of real property taxes. This credit is taken after all other credits in Article 22, reduces any tax under Article 22 and is refundable. If a taxpayer is not required to file a tax return, he may claim the credit and receive a refund by filing form IT-214, New York State Claim for Real Property Tax Credit.

An individual will not qualify for the real property tax credit if any one of the following conditions exist:

- (a) He can be claimed as a dependent by another taxpayer.
- (b) The residence is wholly exempted from real property taxation.
- (c) The full value of the real property owned exceeds \$65,000.
- (d) The adjusted rent paid on the residence by a tenant exceeds \$300 per month.
- (e) Part of the residence is rented and the income derived from nonresidential purposes exceeds 20% of the total rent.

To claim this credit, "household gross income" may not be more than \$12,000 for the year. Household gross income is the total Federal adjusted gross income of all members of the household, plus any New York State modifications required under section 612(b) of the Tax Law and all or any portion of the following items of income not included in Federal adjusted gross income:

- (a) Gain from the sale or exchange of property
- (b) Support money
- (c) Pensions and annuities
- (d) Railroad retirement benefits
- (e) All payments received under the Federal Social Security Act
- (f) Veterans disability pensions
- (g) Disability benefits
- (h) Income earned abroad
- (i) Nontaxable strike benefits
- (j) Supplemental security income payments
- (k) Unemployment insurance
- (l) Nontaxable interest received from the State of New York, its agencies, instrumentalities, public corporations or political subdivisions
- (m) Workman's compensation
- (n) "Loss of time" insurance
- (o) Cash public assistance
- (p) Relief, other than medical assistance, for the needy

Household gross income does not include surplus foods or other relief in kind.

Household gross income must include all income received by all members of the household while they are members of the household. Members of the household include the taxpayer and all other persons, whether or not related, who share the residence. It does not include a person who pays rent and is unrelated to the taxpayer.

"Qualifying real property taxes" are all real property taxes, special ad valorem levies and special assessments levied and paid on a residence owned by a taxpayer or his spouse. However, if a taxpayer has a real property tax exemption because he is over 65 years of age, the qualifying real property tax is the amount which would have been levied as if there were no exemption.

"Real property tax equivalent" is 25% of the rental paid by the household solely for the right of occupancy. Rent does not include charges for heat, gas, electricity, furnishings and board. Where these charges are included in rental paid, the following percentage is to be deducted to determine the taxpayer's adjusted rent:

For heat, or heat and gas	15%
For heat, gas and electricity	20%
For heat, gas, electricity and furnishings	25%
For heat, gas, electricity, furnishings and board	50%

The maximum credit allowed, after computing the excess real property taxes, is \$200 if the taxpayer is 65 years of age or older, or if a member of his household is 65 years of age or older. For taxpayers under 65 years of age, the maximum credit is \$20.

The credit is computed as follows:

- (a) Use the real property taxes paid or 25% of adjusted rent paid.
- (b) Deduct: Household gross income multiplied by the applicable rate from table A or table B, shown below.
- (c) Balance
- (d) If your household gross income is \$7,200 or less, the oldest qualified member of your household is 65 or over and you own your residence; multiply the balance by 25%.
All other claimants enter 50% of the balance.
- (e) The allowable credit will be the lesser of the computed amount on line (d) or the limitation amount shown on the appropriate table.

Table A

For households with a, qualified taxpayer age 65 or over.

Household gross income: <u>At Least</u>	Rate <u>But not over</u>	Limitation	
0	\$ 3,600	.04	\$ 200.00
\$ 3,601	5,400	.05	200.00
5,401	7,200	.06	200.00
7,201	10,000	.07	40.00
<u>10,001</u>	<u>12,000</u>	<u>.07</u>	<u>15.00</u>

Table B

For households with qualified taxpayers under age 65.

Household gross income: <u>At Least</u>	Rate <u>But not over</u>	Limitation	
0	\$3,600	.05	\$20.00
\$ 3,601	5,400	.05	20.00
5,401	7,200	.06	15.00
7,201	10,000	.06	12.50
<u>10,001</u>	<u>12,000</u>	<u>.07</u>	<u>10.00</u>

Examples:

Household gross income		\$ 7,500
Qualifying real property taxes		\$ 600
	<u>Over 65</u>	<u>Under 65</u>
(a) Real property taxes paid	\$ 600.00	\$ 600.00
(b) Deduct: \$7,500 x .07% =	525.00	
		<u>450.00</u>
(c) Balance	\$ 75.00	\$ 150.00
(d) 50% x \$75 =	\$ 37.50	
		\$ 75.00
(e) Computed Circuit Breaker Credit	\$ 37.50	\$ 75.00
(f) Allowable credit	<u>\$ 37.50</u>	<u>\$ 12.50</u>

Real Property Tax Deduction

A "qualified taxpayer" may be entitled to claim a deduction, rather than a credit, which may yield a greater refund or a lesser tax due. To qualify for the real property tax deduction, an individual must meet all of the following conditions:

- (a) Household gross income for the entire taxable year must have been more than \$5,400 but not more than \$12,000.
- (b) Must have been 64 years of age or less in the taxable year.

- (c) Must have occupied the same residence (whether owned or rented) for 6 months or more of the taxable year.
- (d) Must have paid real property taxes levied on the residence or paid rent which constitutes real property taxes during the taxable year.
- (e) Must be a resident of New York State for the entire taxable year.
- (f) Must file a New York State income tax resident return (Form IT-201/208).

An individual will not qualify for the real property tax deduction if any one of the following conditions exist:

- (a) He can be claimed as a dependent by another taxpayer.
- (b) The residence is wholly exempted from real property taxation.
- (c) The full value of the real property owned exceeds \$65,000.
- (d) The adjusted rent paid on the residence by a tenant exceeds \$300 per month.
- (e) Part of the residence is rented and the income derived from nonresidential purposes exceeds 20% of the total rent.
- (f) An election is made to claim the real property tax credit.

Note: The definitions of "residence", "qualifying real property taxes" and "real property tax equivalent" are the same for the Real Property Tax Deduction and the Real Property Tax Circuit Breaker Credit.

The deduction allowed is determined as follows:

If the household gross income for taxable year is:	And the real property tax equivalent or qualifying real property taxes exceeds:	Then the following deduction is allowed:
Over \$ 5,400 but not over \$ 7,200	6% of household gross income	\$ 450
Over \$ 7,200 but not over \$10,000	6% of household gross income	\$ 300
Over \$10,000 but not over \$12,000	7% of household gross income	\$ 250

Examples:

	<u>A</u>	<u>B</u>	<u>C</u>
(1) Household gross income	\$ 9,000	\$ 9,000	\$ 6,000
(2) Real property taxes paid	\$ 500	\$ 800	\$ 600
(3) Rate from above table applied to household gross income:			
6% x \$ 9,000 =	\$ 540	\$ 540	
6% x \$ 6,000 =			\$ 360
(4) Allowable deduction	-0-	\$ 300	\$ 450

In example "A", no deduction is allowed since the percentage of household gross income exceeds the real property taxes paid.

In example "B", the allowable deduction is limited to \$300, the amount shown on the above table.

In example "C", the allowable deduction is \$450, the amount shown on the above table.

Only one deduction per household and per qualified taxpayer will be allowed in a taxable year.