Real Estate Tax Credit for Persons Age 65 and Older (known as the Circuit Breaker Credit)

General Rules and Qualifications

Certain taxpayers age 65 or older may be eligible to claim a refundable credit on their state income taxes for:

- the real estate taxes paid during the tax year on the residential property they own in Massachusetts that is used as their principal residence; or
- the rent paid during the tax year on the residential property they rent in Massachusetts that is used as their principal residence.

Refundable Credit:
If the credit exceeds the amount of total income tax due for the year, the excess amount of the credit will be refunded to

the taxpayer without interest.

Maximum Credit Allowed for Tax Year 2012 :
For tax year 2012, the maximum credit allowed for both renters and homeowners is $1,000.

To be eligible for the credit for the 2012 tax year:

1. the taxpayer or spouse, if married filing jointly, must be 65 years of age or older at the close of the taxable year;
2. the taxpayer must own or rent residential property in Massachusetts and occupy the property as his or her principal residence;
3. the taxpayer's "total income" cannot exceed $53,000 for a single filer who is not the head of a household, $67,000 for a head of household, or $80,000 for taxpayers filing jointly; and
4. for homeowners, the assessed valuation of the homeowner's personal residence as of January 1, 2012, before residential exemptions but after abatements, cannot exceed $705,000.

No credit is allowed if one of the following applies. Taxpayer:

- claims **married filing separate** status; or
- receives a federal or state rent subsidy; or
- rents from a landlord who is not required to pay real estate taxes; or
- is the dependent of another taxpayer.

Qualification for Real Estate Tax Credit is determined by completing the following worksheets/Schedules:

- **for residents and part-year residents,** both Schedule CB Worksheets and Schedule CB, Circuit Break Credit.
- **residents and part-year residents** can check to see if they may qualify by reviewing the Income and Tax Thresholds Table below. If they qualify, the credit is determined by completing the both Schedule CB Worksheets and the Schedule CB, Circuit Breaker Credit.
- **nonresidents** do **not** qualify for this credit since the property must be an owner occupied principal residence located in Massachusetts.

Calculation of the Credit

Eligible taxpayers who own their properties may claim a credit equal to the amount by which their property tax payments in the current tax year, (excluding any exemptions and/or abatements) including water and sewer use charges assessed, exceed 10% of their "total income" for that tax year.

Calculation Formula:

Total Income = Massachusetts adjusted gross income
plus: all other income excluded from Massachusetts gross income
less: the personal income dependent, over age 65 and blindness exemptions

Property Tax payments = total tax paid in the tax year (or 25% of rent)
less: real estate tax abatements, exemptions and other reductions received
in the tax year
less: interest and penalty charges on delinquent payments
plus: 50% separately stated water and sewer paid in the tax year
plus: betterments

Property Tax Payments:
For a homeowner, property tax payments are actual amounts paid during the calendar year after making certain adjustments. All property tax payments made during the calendar year are included regardless of the year to which payments are applied. For example, all real estate tax payments made in 2012, including amounts properly due in another year, are used by a homeowner in determining the correct property tax payment amount for purposes of the credit.

Adjustments that must be made to reduce property tax payment amount include:

- abatements granted by local assessors;
- exemptions granted by cities or towns to qualifying veterans, surviving spouses, blind persons, and senior citizens earned through the Senior Work Program; and

- interest and penalty charges assessed due to delinquent payments.

Senior Work Program under G.L. c. 59, s. 5K - Taxpayers who participate in this program receive a reduction in their property taxes owed and such reduction may not be included in the calculation of property tax payments.

No adjustment is required, however, for taxes assessed, either under the Community Preservation Act, the Cape Cod Open Space Land Acquisition Program or by a tax-levying district.

Real Estate Payment Plus 50% Water and Sewer Payments:
Taxpayers residing in communities that do not include water and sewer debt charges in their property tax assessments may include, in addition to their property tax payments, 50% of the actual water and sewer use charges paid during the tax year when calculating their credit.

Towns that may not take the 50% Water and Sewer Use Charges:
Generally, cities and towns with municipal water and sewer systems issue an annual bill from the municipal or district water /sewer department. This bill is sent separately from fiscal year real estate bills. Current water and sewer use charges are not shown on the real estate tax bill. It is only when a water/sewer bill is delinquent that it is added to a tax bill in most communities (city or town must have adopted G.L. c. 40, ss. 42A-F and C. 83, ss. 16A-G). If delinquent charges are added to the tax bill, the charges become part of the tax and constitute a lien. The provisions of the circuit breaker relate to current sewer/use charges.

The water and sewer use charge represents both capital debt costs and ongoing operational costs of the system; taxpayer bills are based on usage. Generally, taxpayers are allowed to include 50% of the total water and sewer charges paid when calculating the circuit breaker property tax payment. This percentage is meant to approximate the portion of the water and sewer use charge attributable to capital debt service.

However, the legislature, in 1993, added a provision to Prop 2 1/2 that allows communities to shift either all or a portion of water and sewer capital costs paid through user charges for service from their water and sewer bill to their real estate tax bill outside the levy limit. Electing communities include water and sewer capital debt service costs as part of the real estate tax bill issued to residents. Communities that have elected this treatment are Arlington, Avon, Easthampton, Hadley, Hatfield, Webster, and Winchester. Thus, in those communities, the amount of sewer and water charges allowed in calculating the credit is already included in these taxpayers' real estate tax bill.

Betterments may be added if directly connected to either the construction, repair and/or maintenance of a water and sewer system, including sewage treatment plants.

Cost to pump septic tank does not qualify as water and sewer use charge since a private cleaning company performs the cleaning and it is not a charge levied by a city or town.

However, charges from a town sewage treatment facility (town health department) for the processing of septic tank waste and the discharging of it as a liquid is allowed since amount is levied by a city or town.

Rent Constituting Real Estate Tax Payment

For renters, the law assumes that 25% of rent goes toward property tax. Accordingly, renters may claim a credit in the amount by which 25% of their annual rental payment is more than 10% of their total income.

When calculating the Circuit Breaker Tax Credit, a taxpayer should base the calculation on actual rent paid during the calendar year regardless of the year for which the payment is applied. For example, in 2012, taxpayer paid 14 months rent, i.e.,

- rent for December 2011 was paid in January 2012,
- rent for January through December 2012 was paid in 2012; and
- rent for January 2013 was paid in 2012.

In this case, the amount of rental payments for purposes of the credit would be all 14 rental payments.

Rental Deduction:
Rent that is used for calculating the credit is also used to calculate the allowable rental deduction.

Rental Payments:
Rental payments are based on actual amount an individual pays in the calendar year regardless of the terms of the lease of the rental unit.

Rental Unit Example: If two individuals sign a lease for a rental unit but one pays all of the rent, then only that individual can use the rent paid during the calendar year for purposes of the credit calculation.

Calculation of "Total Income"

For purposes of the tax credit, a taxpayer's "total income" is the taxpayer's Massachusetts adjusted gross income (Massachusetts AGI) increased by various amounts that may have been or subtracted when originally calculating Massachusetts AGI. These amounts include income from social security, retirement, pension or annuities, cash public assistance, tax-exempt interest and dividends, short-term and long-term capital losses, certain capital gains, income from a partnership or trust not otherwise included in the taxpayer's Massachusetts AGI. These amounts also include gifts, returns of capital reported on Schedule C and gross receipts from any other source other than the tax credit itself.

Total Income Determination:

- Massachusetts gross income is included in the total income calculation;
- Generally, federal gross income excluded from Massachusetts gross income by specific law, is added back in the total income calculation. Example: Interest from certain U.S. and MA obligations;
- Generally, any amount that is excluded from federal gross income is **not** added-back in the total income calculation if such amount is not defined as income and is not included in Massachusetts gross income by specific law.
- Subsidies, insurance programs and similar reimbursement programs, etc. are generally **not** added-back in the total income calculation.

Specific Items Included in Total Income Calculation (included, but not limited to):

Schedule CB Worksheets - Income Added Back:

- **Estate income**, CB Worksheet, various - earned income from an estate, e.g. the estate is in probate, or cannot be settled due to a pending lawsuit; any interest income earned from funds left in the account, or rental income earned from rental property that is part of the estate is included. Generally, this income is reported to beneficiaries on a K-1,),
- **Gains included** in U.S. Schedule D (not including losses), CB Worksheet, Part 3., Lines 12 -17;
- **Interest Income** from U.S. and Massachusetts government bonds, notes and bills, CB Worksheet, Part 2., Line 8.

Schedule CB:

- **Cash Public Assistance,** Schedule CB, Line 6 - including food stamps and welfare, as well as any other payments received from a government or quasi-governmental agency such as emergency rental assistance due to a fire. Cash public assistance also includes:
  - **Fuel assistance**, if paid directly to the taxpayer, e.g., a one-time emergency check to fill a tank is included. However, if the assistance is paid through a discounted rate program (3rd party beneficiary and individual's income qualifies for below market rates) the payment is generally considered in-kind assistance and is excluded from the income calculation.
- **Disability income,** Schedule CB, Line 6 - if paid in lieu of wages;
- **Food stamps** (see cash public assistance above);
- **Gains from sale of personal residence under the $250,000/$500,000,** Schedule CB, Line 6;
- **Gifts,** Schedule CB, Line 6;
- **Massachusetts and U.S. Government Contributory and Military Noncontributory Pensions**, Schedule CB, Line 5;
- **Previously Taxed income distributions from IRA/Keogh, Annuity, Stock Bonus, Pension, Profit Sharing Plan**, Schedule CB Line 5;
- **Return of Capital**, Schedule CB, Line 6 - e.g. sale of stock: cost = $100, Selling Price = $500, gain = $400. Gain of $400 is reported as capital gain, and return of capital of $100 is added back in Line 6, Schedule CB.
- **Sick Pay**, Schedule CB, Line 6 - if paid in lieu of wages;
- **Social Security Benefits received**, Schedule CB, Line 4 - which include retirement, disability, dependent, survivorship and insurance. Medicare premiums withheld from SS checks (Form 1099 SA) may **not** be subtracted out.
  - **Medicare and Medicad payments** are not added back since they are part of an insurance program. Usually the individual has paid premiums into these programs during their working years. The "Total Income" calculation in the instruction booklet, Line 4, Total Social Security Payments Received, erroneously states that Medicare is included
- **Welfare (see cash public assistance above)**
- **Workers Compensation**, Schedule CB, Line 6.

Specific Items Excluded from Calculation of Total Income:

- **Estates** - one time distributions that have been probated are not included since they are not part of federal gross income;

- **Life Insurance Policies** - Proceeds payments are not included since they are not part of federal gross income (U.S. Form 712);
- **Losses included in U.S. Schedule D;**
- **Net worth of assets**, accumulated earnings in an account i.e., deferred compensation, IRA, etc.;
- **Payments, in-kind payments, or monies received** that are otherwise not defined as wages, payments in lieu of wages, income, other income, return of capital, or gross receipts;
- **U.S. Series E and Series EE bonds** - these bonds are considered investment bonds and do not earn interest each year. Instead, the income is recognized federally only at the time the bond matures and the holder cashes it in. Years prior to maturity, there would be no income.

Note: For Schedules C and E, the net profit or loss amount = Massachusetts AGI. The only addback for purposes of calculating "total income" would be any return of capital.

"Total Income" Less: Certain Exemptions and Deductions:
This total income figure is also reduced by certain exemptions that are allowed for taxpayers who are at least age 65 by the end of the tax year, for dependents and for blindness, as well as certain deductions reported on Massachusetts Schedule Y, Lines 1 through 10.

Income and Tax Thresholds

Calculation:

Total Income = Massachusetts adjusted gross income
plus: all other income excluded from Massachusetts gross income
less: the personal income dependent, over age 65 and blindness exemptions

Tax payments = total tax paid in the tax year (or 25% of rent)
less: real estate tax abatements, exemptions and other reductions received in the tax year
less: interest and penalty charges on delinquent payments
plus: 50% separately stated water and sewer paid in the tax year
plus: betterments

Note: taxpayers living in the following towns may **not** add the 50% water and sewer: Arlington, Avon, Easthampton, Hadley, Hatfield or Winchester.) Taxpayers living in Mattapoisett or Webster must contact their town officials to determine if the town has elected to include water and sewer charges in the property tax assessment. If they have, then taxpayers may **not** add the 50% water and sewer.

Tax Credit 2012 Thresholds:

Filing Status Thresholds	Total Income Less: Certain Personal Income Exemptions & Deductions	10% of Total Income	Minimum Real Estate Tax Less: Real Estate Tax Abatements & Exemptions Plus: 50% Separately Stated Water & Sewage	Minimum Total Rent
	$5,000	$500	$501	$2,004
	$10,000	$1,000	$1,001	$4,004
	$15,000	$1,500	$1,501	$6,004
	$20,000	$2,000	$2,001	$8,004
	$25,000	$2,500	$2,501	$10,004
	$30,000	$3,000	$3,001	$12,004
	$35,000	$3,500	$3,501	$14,004
	$40,000	$4,000	$4,001	$16,004
	$45,000	$4,500	$4,501	$18,004
	$50,000	$5,000	$5,001	$20,004

Max for Single	$53,000	$5,300	$5,301	$21,204
	$55,000	$5,500	$5,501	$22,004
	$60,000	$6,000	$6,001	$24,004
	$65,000	$6,500	$6,501	$26,004
Max for Head of Household	$67,000	$6,700	$6,701	$26,804
	$70,000	$7,000	$7,001	$28,004
	$75,000	$7,500	$7,501	$30,004
Max for Married Filing Joint	$80,000	$8,000	$8,001	$32,004

Example for a Homeowner:

Assessed value of home as of January 1, 2012	$701,000
Single taxpayer's total income less certain deductions and exemptions	$47,000
Real estate tax paid plus 50% water and Sewage charges	($5,800)
10% of total income ($47,000 x .10)	$4,700
Real estate tax paid	($5,800)
Real estate tax exceeds 10% total income	($1,100)
2012 refundable credit limitation	($1,000)
Tax Due	$0
Total Refunded	($1,000)

Taxpayers with No Filing Requirement but Who Qualify for the Refundable Credit Must Still File a Return

Completed Forms, Schedules and Worksheets to Submit:

- Form 1 or 1-NR/PY, if part-year resident - on the top of Form 1, write "Information Return Only - See Schedule CB;"
- Schedule CB Worksheets;
- Schedule CB;
- Schedule Y, only if you have certain deductions;
- Schedules B, only if you have non-MA bank interest, dividends and short-term capital gains;
- Schedule D, only if you have long-term capital gains or capital gain distributions.

Form 1 Items to Fill Out:

- Top portion of the form: name, address, social security #;
- Line 1, Filing Status;
- Line 2, Exemptions;
- Line 3 - 9, where applicable;
- Line 10, total income. This amount will be reported on CB worksheet, line 1;
- Line 14, rental deduction if applicable;
- Line 41, Senior Circuit Breaker Credit;
- Signature.

Form 1-NR/PY Items to Fill Out:

- Top portion of the form: name, address, social security #;
- Line 1, Filing Status;
- Line 4, Exemptions;
- Line 5 - 11, where applicable;
- Line 12, total income. This amount will be reported on CB worksheet, line 1;
- Line 18, rental deduction if applicable;
- Line 46, Senior Circuit Breaker Credit;
- Signature.

Schedule Y Items to Fill Out:

- Lines 1 - 10. This amount will be reported on CB worksheet, line 2;

Schedule B:

- Lines 1 - 8, interest and dividends;
- Line 9, total interest and dividends. This amount will be reported on CB worksheet, line 7;
- Line 6, Interest income excluded addback. This amount will be reported on CB worksheet, line 8;
- Lines 10 - 14, capital gains;
- Line 15, total short-term capital gains. This amount will be reported on CB worksheet, line 10.

Schedule D:

- Lines 1 - 5, (excluding capital losses). This amount will be reported on CB worksheet, lines 12 through 16.

Special Provisions for Real Estate Tax Payments and Assessed Valuation

Taxpayers who own either a multi-unit dwelling (a multi-family residence that includes their personal residence), a land area in excess of one acre or a multi-purpose building or land area must:

- **Real Estate Tax Payments:**
  Taxpayers may only claim their proportional share of the real estate tax payments, including water and sewer use charges, which corresponds to the portion of the residence used and occupied as their principal residence. For example:
  - if a condominium association pays the sewer and water bill for multiple owners, each owner may only claim his or her proportional share attributable to his or her condominium of the charges paid;
- **Assessed Valuation:**
  Taxpayers may also prorate the assessed valuation of these properties to correspond to that portion of the residence used and occupied as their principal residence. For example:
  - if a taxpayer owns more than one acre of land, only the assessed value of the principal residence, together with the land that immediately surrounds and is associated with that residence, not to exceed one acre, should be used in determining the eligibility of the taxpayer for the credit.

Change in Assessed Valuation During the Tax Year:
For the tax year, a homeowner otherwise eligible for the circuit breaker credit will not be eligible unless the assessed valuation, before the residential exemptions but after abatements, of the homeowner's principal residence does not exceed the threshold amount as of January 1 of the taxable year. Thus, if the assessed value of the principal residence rises above the threshold amount during the year, the homeowner would still be eligible for the credit since the value of January 1 is the measurement date.

Adjustment to assessed valuation after January 1st of the Taxable Year:
If a homeowner disputes assessed valuation and successfully receives a reduced valuation during the year, the lower assessed valuation may be used. This is consistent with the reduction in tax bill that will be reflected through a real estate tax abatement.

Multi-Family Dwellings:

- **Assessed Valuation for Owner-Occupier:**
  An owner-occupier of a multiple-unit dwelling may allocate the assessed valuation of the entire property to correspond to that portion of the residence used and occupied as his or her principal residence for purposes of qualifying for the credit.

- **Real Estate Tax Payments for Owner-Occupier:**
  An owner-occupier of a multiple-unit dwelling must allocate total property tax payments to correspond to that portion of the residence used and occupied as his or her principal residence for purposes of calculating the credit.

- **Rental Payments for Tenants of Rental Units:**
  A tenant of a multiple-unit dwelling may claim 25% of the total rent paid for the rental unit for purposes of calculating the credit.

Multi-family dwelling Example: an individual owns a 3 family house with an assessed valuation of $1,200,000, and has made property tax payments during the year of $8,000; all units are the same in size and condition. One unit is taxpayer's principal residence, the other two are rented:

- The owner allocates $400,000 to each of the three units. To qualify for the credit, the owner would use the assessed valuation of $400,000 for his principal residence;

- The owner allocates $2,667, one-third of the $8,000, to each of the three units. For purposes of the calculation, the owner may only claim property taxes of $2,667 for his principal residence;

- Since the owner has paid property tax on the 3 family, the tenants may qualify based on the total rent paid for their rental units.

Single Unit Dwellings - Multiple Ownership:

- **Assessed Valuation:**
  Since there is only one dwelling, the assessed valuation may **not** be allocated even though two separate taxpayers are occupying the residence.

- **Real Estate Tax Payments:**
  Real estate tax payments are based on the actual amount an individual pays in the calendar year regardless of ownership of the dwelling. (See TIR 01-19(B)(1))

Single Unit Dwelling Example: Two brothers, one over the age of 65, each has a 50% ownership in a single family home. The brother over age 65 pays all of the taxes in the amount of $4,500 and the assessed value is $800,000. His total income qualifies:

- The assessed value of $800,000 may **not** be prorated since the property is not considered a multi-unit residence;

- The assessed valuation of $800,000 disqualifies either brother.

- If the assessed valuation were below the threshold, then the brother over age 65 may claim all $4,500 of taxes paid; the other brother may not make any claim for the credit since he made no real estate tax payments.

Property on More than One Acre of Land:

- **Assessed Valuation:**
  Only the assessed value of the principal residence, together with the land, not to exceed one acre, that immediately surrounds and is associated with that residence should be used in determining eligibility for the credit. if the taxpayer's real estate tax bill does not separately list the assessed value of the principal residence and the surrounding land up to one acre, the taxpayer should contact the local city or town assessor for a breakdown of the real estate tax bill E.g., 20 acre parcel with a house.

- **Real Estate Tax Payments:**
  Since the taxpayer may only claim that proportional share of the real estate tax payments, including water and sewer use charges, which corresponds to the portion of the residence used and occupied as principal residence, he or she will need to prorate the taxes paid.

Assisted Living Facilities

These are either public or private facilities that provide a variety of housing and healthcare services such as 24-hour nursing care, emergency care, etc.

- **Tenant Relationship:**
  Fees paid to an assisted living facility are considered rent for purposes of taking the credit only if both criteria are met:

  1. The facility pays real estate taxes; and

  2. An actual landlord-tenant relationship exists between the taxpayer and the assisted living center.

  To determine the amount of rent available for the credit calculation, DOR will look to the contractual agreement between the facility and tenant to determine if any of the monthly payment is attributable to rent, either:

- Where an amount for rent is separately stated on the taxpayer's bill from the center; or
- Where a portion of an individual's monthly payment may be considered rent.

Taxpayers living in assisted living facilities that are exempt from paying real estate, such as public housing or church managed homes, may not claim the credit.

- **Ownership Relationship:**
  In cases where the individual owns a unit, pays the real estate taxes, and is assessed for his or her living unit directly to the city or town, the amount paid may be used in the calculation for the credit.

  If the facility has a structure similar to a co-operative where the individual is paying a monthly fee that covers both real estate taxes and other types of services, i.e. medical and nursing care, only that portion of the payment documented as related to the real estate tax paid can be considered. DOR will look to the contract or ownership agreement to determine the nature of these payments.

Nursing homes, Homes for the Elderly, Retirement Homes:

Payments made to these types of facilities may not be considered rent unless a landlord-tenant relationship exists. DOR will look to the contractual relationship between the taxpayer and the facility.

Government Rentals And Housing Subsidies Disqualify A Taxpayer:
Taxpayers who receive rent subsidies under Section 8 or any other government housing subsidies, or who live in government housing authorities do not qualify for the credit.

Trusts

- Grantor (Revocable) Trust, where taxpayer is a trustee - the taxpayer should file as if a homeowner;
- Grantor (Revocable) Trust, where taxpayer is not a trustee - e.g. former owner who creates a Life Estate and puts property into the trust for the benefit of children. Generally, if under the terms of the trust, a taxpayer makes payments to the trust in lieu of rent, the taxpayer may treat these payments the same as if they were rent and should follow the renter rules when filing for the credit.
- Irrevocable trust - Taxpayer should follow the renter rules.

Annual Increases to Reflect Increase in Cost of Living

The maximum figures for income limits, property valuation, and the credit itself, are to be adjusted annually to reflect increases in the cost of living.

The Tax Credit Is Not Considered Income:
Tax credits received by eligible taxpayers are not considered income for the purpose of obtaining eligibility or benefits under other means-tested assistance programs including food, medical, housing, energy and educational assistance programs.

Work Service Program:

- **For Massachusetts purposes,** Chapter 59, Section 5k excludes from income the amount received as a reduction in real estate taxes.
- **Federally**, the amount received is taxable.

Deductions, Impact:

- Rental deduction - full amount of rental payments are used for calculation of the credit as well as to calculate amount of rental deduction. No adjustment is made to the credit if the rental deductions is claimed and visa versa.

Where to Report on Original Tax Return; What to Enclose:

- **For full year residents and part year residents only** must complete both Schedule CB Worksheets and Schedule CB, Circuit Breaker Credit . For homeowners, enter the amount from Schedule CB, Line 17 (renters should enter the amount from Schedule CB, Line 21) on either Mass Form 1, Line 41 or Form 1-NR/PY, Line 45 and enclose Schedule CB.

Documentation to Submit with Abatement/Amended Tax Return:

- Schedule CB - Circuit Breaker Credit;
- Real estate tax bills and/or the actual tax paid, or proof of rent paid;
- Sewer and water bills or proof of the actual amount paid.

Massachusetts References:

- M.G.L. Chapter 62, Section 6(k) as added by St. 1999, c. 127, ss. 80; 81; 387-388; 3
- TIR 12-8: Annual Update of Real Estate Tax Credit for Certain Persons Age 65 and Older
- TIR 99-19: Tax Changes in the Fiscal Year 2000 Budget, Other Than Capital Gains and
- LR 82-34: Rent Deduction: Nursing Home
- LR 82-33: Rent Deduction: Home for the Elderly

Return to Personal Income Tax Issues