

**Tax Relief
and
Abatement
Standards of Practice**

3

Utah State Tax Commission
Property Tax Division
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Section III.I

General Information

Purpose

These standards provide a reference to accepted procedures for administering statutory tax relief programs.

NOTE: Forms associated with these standards are listed in Appendix 3 A – Referenced Forms and can be found at the following location:

<http://propertytax.utah.gov/formswithstandards.html#standards03>

Scope

These standards address four types of statutory tax relief: the veteran with a disability exemption, blind exemption, indigent abatement/deferral and the circuit breaker tax credit. The veteran with a disability and blind exemptions provide that part of the value of real and/or personal property owned by veterans or blind people or their surviving spouses or orphaned minor children is exempt from property taxes. The indigent abatement/deferral allows for the abatement or deferral of property taxes for indigents who are 65 years of age or older. People under age 65 may qualify if they are disabled, or can demonstrate circumstances of extreme hardship. The circuit breaker tax credit is similar to the indigent abatement except that the amount of the credit varies with household income. In addition to meeting the income requirement, a person must be at least 66 years of age or be a surviving spouse. The county governing body (county) and the Utah State Tax Commission (Commission) are given statutory powers to grant adjustments to, or deferrals of, property taxes under certain circumstances.

Determination of Tax Relief Status and Burden of Proof

The county is responsible for granting the veteran with a disability and blind exemptions, indigent abatements and deferrals. The Tax Commission and the county are responsible for administering the circuit breaker tax credit.

The burden is on the applicant to prove eligibility for any tax relief program. The county may request any information needed as evidence of eligibility. If the applicant fails to provide the necessary information or refuses an audit for verification of eligibility, the county may deny the tax relief.

Application forms are to be approved by the Commission prior to use.

Utah Residency Requirements

Claimants (except for the veteran with a disability exemption) for exemptions and abatements must provide proof of established residency in the State of Utah. Indigent applicants must live in their residence at least 10 months of the year. Circuit breaker applicants must reside in the state for the entire calendar year. Absence from the residence due to vacation, confinement to a hospital, or other similar temporary situation is not to be deducted from the residency requirement. (R884-24P-5)

U.S. Residency Status of Applicant for Tax Relief

Senate Bill 81 enacted by the 2008 Utah Legislature and effective July 1, 2009, is a broad immigration reform law. One provision of the law requires an agency or political subdivision of the state to verify the lawful presence in the United States of an individual who has applied for a state or local public benefit. Excluding the veteran with a disability exemption, an applicant for a state or local public benefit must provide proof of legal status or certify his/her lawful presence in the United States. A person honorably discharged from US military service is presumed to be a US citizen and not required to provide additional proof of citizenship.

A United States citizen or a legal resident will possess a social security number. Also, an individual who is present in the U.S. lawfully may qualify under 8 U.S.C. 1641 and possess an I-94 or an Alien Number.

The U.S. Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), Verification Division has created an immigration status verification program called the Systematic Alien Verification for Entitlements (SAVE). The SAVE Program allows accessing immigration status information contained in the Department of Homeland Security databases. For a fee, the SAVE Program is available to determine the immigration status of applicants, thereby ensuring that only entitled applicants receive state or local public benefits (tax relief). Contact information for SAVE is as follows: Telephone number 1-888-464-4218; Fax number 202-358-7867; E-mail address <mailto:SAVE.HELP@DHS.gov> and mailing address USCIS, SAVE Program, 490 L'Enfant Plaza, East SW, Suite 7112, Washington D.C. 20529-2620.

Filing Deadline

The law requires applications for veteran with a disability and blind exemptions and indigent abatements/deferrals be submitted on or before September 1 of each year. The county can extend the filing deadline until December 31, if good cause exists.

Ownership

All applicants should provide evidence of ownership such as a copy of the property tax notice, deed, revocable trust, or motor vehicle registration.

Multiple Ownership

The veteran with a disability exemption applies to a primary residence and/or personal property held exclusively for personal use and is not used in a trade or business. If several veterans own fractional interests in a property, they are each eligible for their full veteran with a disability exemption. An indigent abatement is granted according to the total household income of a single owner-occupied primary residential property and effectively reduces the amount of tax due. Multiple ownership does not affect the amount of the abatement. If several indigents own fractional interests in a property, the combined maximum abatement would be no greater than the maximum abatement granted if a single indigent owned the property. If several indigent veterans each own a partial interest in their home they would qualify for one full indigent abatement among them, but may each receive their full veteran with a disability exemption.

Legal Guardian Or Power Of Attorney

The representatives of applicants unable to act on their own behalf, should submit a signed and notarized power of attorney, or other documentation, as required by the county with the application.

Limitations

The veteran with a disability exemption, circuit breaker and indigent abatements are limited to taxes on the residence and a maximum of one acre of land.

Section III.II

Standards of Practice

Standard 3.1 Veteran with a Disability Eligibility Requirements

3.1.0 Veteran with a Disability

To be eligible an individual must be disabled in the line of duty during any war, international conflict, or military training in the military service of the United States or of the State of Utah. The disability must be at least 10%. However, a veteran with a disability is considered to be 100% disabled, regardless of the percentage of military disability if the US Dept of Veteran's Affairs certifies the veteran in the individual unemployability classification (Section 59-2-1104).

3.1.1 Surviving Spouse

The unmarried surviving spouse and minor orphans of a veteran with a disability or of a veteran with a disability who died as a result of military service with the United States or with this state, may apply for a veteran with a disability exemption. [Section 59-2-1104]

3.1.2 Eligible Property

The following property is eligible for a veteran with a disability exemption:

- Primary residence
- Personal property held exclusively for personal use and is not used in a trade or business, or
- A combination of the above.

An unmarried surviving spouse or a minor orphan of a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty is allowed the veteran with a disability exemption regardless of whether they are listed as owner of the property as of January 1. However, all other claimants must own the property as of January 1 in order for the property to be eligible for the veteran with a disability exemption. (Section 59-2-1101)

Property held under a real estate contract is eligible for the exemption if the claimant is both the purchaser under the contract and is obligated to pay property taxes on the property beginning on January 1 of the year the exemption is claimed. (Section 59-2-1105)

3.1.2.1 Property Held in Trust

If the veteran with a disability (claimant), is the creator (grantor) of a trust holding title to real or tangible personal property for which an exemption is claimed, the claimant must prove to the county that (s)he is able to regain legal title to this property by claimant's own action under the trust, or the action of a non-adverse party or joint action of the claimant and the nonadverse party. The power to revoke the trust, terminate (the trust or any conveyance of property to the trust), alter or amend the trust itself, or appoint a new trustee must be present. When the claimant is not the creator (grantor) of the trust, the claimant must control the legal ownership (must be the Trustee: **and** must have control of the beneficial ownership of the trust or be the beneficiary of the trust). In addition, the claimant must be obligated to pay the property taxes on that portion of the trust property for the year (beginning January 1) in which the claimant claims the exemption. (Section 59-2-1105)

Key questions to ask the claimant are:

- Is the trust revocable?
- Is the claimant also the Trustee of the Trust?
- If the claimant is not the Trustee, does (s)he have the ability to appoint a new or different Trustee, can the claimant amend the trust at any time, or can the claimant withdraw or order the withdrawal of the property from the trust?

The terms “inter vivos” and “living” are typical terms located in revocable trusts. Generally, a claimant’s property included in an irrevocable trust would not be eligible for tax relief. However, each trust document is unique and must be considered on its own merits. If unable to determine if the trust qualifies, have the claimant presenting the trust bring in a letter from the attorney who prepared the trust indicating that it qualifies as a “grantor trust”, that the grantor retains ownership of the assets pursuant to Section 676 of the Internal Revenue Code, and that all income earned by the trust is taxable to the grantor.

Standard 3.2 Veteran with a Disability Application Process

3.2.0 Application Deadline

On or before September 1, any person applying for a veteran with a disability exemption must file an application with the county in which the applicant resides. If an applicant resides in a different county from that of the property, a copy of the application must be sent to the county in which the property is located and any other county in the state where the veteran with a disability owns property. Click on the following link to view the form, [PT-30 Veteran with a Disability Property Tax Exemption Application](#).

The county is required to extend the application deadline for one year, if:

- a) a military entity issues a written decision that the veteran is disabled or deceased veteran with a disability was disabled at the time the deceased veteran died; and
- b) the date the military entity issues the written decision takes effect is in any year prior to the current calendar year. (Section 59-2-1105)

In addition, the county is required to extend the application deadline for one year, if the county legislative body determines that:

- a) the claimant or a member of claimant’s immediate family had an illness or injury that prevented the claimant from filing the application on or before the September 1 deadline;
- b) a member of the claimant’s immediate family died during the calendar year the claimant was required to file the application;
- c) the claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year the claimant was required to file the application;
- d) the failure of the claimant to file the application on or before the deadline would be against equity or good conscience and was beyond the reasonable control of the claimant. (Section 59-2-1105)

3.2.1 Required Information

The following information must accompany the initial application:

- A copy of the veteran’s certificate of discharge from military service of the United States or of this state, or other satisfactory evidence of eligible military service (Section 59-2-

1105). A person who is honorably discharged from military service of the US or the state is presumed to be a US citizen and no additional proof of US citizenship is required.

- A statement issued by a military entity listing the percentage of disability and/or unemployability for the veteran with a disability or deceased veteran with a disability. (Section 59-2- 1104 and 1105)
- In the event of the veteran’s death, a death certificate or other evidence required by the county.

In the event of the veteran who was killed in action or died in the line of duty, a letter indicating casualty information from the US Veterans Administration must accompany the application.

The county may not require the claimant to file another statement issued by a military entity unless:

- a) The claimant is someone other than the claimant who filed an application for the veteran with a disability exemption for the calendar year immediately preceding the current calendar year; or
- b) The percentage of disability/unemployability has changed for a veteran with a disability or deceased veteran with a disability. Section 59-2-1104 and 1105

Once the claimant has an application on file with the county, the county may not require the claimant to file an application each year unless certain situations apply. The situations or conditions requiring the claimant to file another application are outlined in Section 59-2-1105.

3.2.2 Additional Evidence

It is the county’s option to require the applicant to provide additional evidence.

3.2.3 Application Receipt Required

The county is to provide a receipt to a claimant who files an application for the veteran with a disability exemption. (Section 59-2-1105) The receipt could be as simple as a receipt date stamp on the application with a copy of such to the applicant. This receipt is to be provided no later than 30 days after the day on which the claimant filed the application.

3.2.4 Application Amendments

The county is to allow the claimant to amend the application up to a year after the claimant has filed the application if: (Section 59-2-1105)

- a) a military entity issues a written decision that the percentage of disability has changed; and
- b) the date the military entity’s written decision takes effect is in any year prior to the current calendar year.

The claimant is to provide to the county a statement issued by a military entity listing the date the military entities written decision takes effect.

Standard 3.3 Amount of Veteran with a Disability Exemption

3.3.0 Veteran with a Disability

If the percentage of disability/unemployability is 100% or greater, the full \$228,931 exemption for 2010 is allowed. The amount of exemption is determined by multiplying \$228.931 by the veteran’s percentage of disability/unemployability. Example: A 50% disability/unemployability

results in a \$114,466 of taxable value exemption. An exemption may not be allowed for any disability below 10%. [Section-59-2-1104]

3.3.1 Unmarried Spouse and Minor Orphans

The unmarried surviving spouse or minor orphan of a veteran who was killed in action or in the line of duty may claim a veteran with a disability exemption for the total value of the property described in *Standard 3.1.2*. [Section 59-2-1104] A letter indicating casualty information from the US Veterans Administration must accompany the application for the disabled veterans exemption.

3.3.2 How Exemption Applies To Motor Vehicles

The county auditor/treasurer assumes the responsibility for calculating the exemption amount and supplying the taxpayer with a form that clearly states the amount of motor vehicle fee or tax to be abated for each vehicle. Click on the following link to view the form, [PT-32 Veteran with a Disability or Blind Abatement of Motor Vehicle Uniform Fees and Property Tax](#). The taxpayer will submit this completed form to the motor vehicle office at the time of registration or renewal of registration. To determine the appropriate rate refer to Page 2 of Form PT-32, which lists various personal property and the associated uniform fee, value-based uniform fee or property tax rate.

3.3.3 Refund of Overpayment

The county, granting a veteran with a disability exemption to a person under Section 59-2-1105, is to grant a refund if the claimant's property taxes paid exceed the claimant's property taxes due, providing the amount is \$1 or more. (Section 59-2-1105)

Standard 3.4 Blind Eligibility Requirements

3.4.0 Eligible Persons

Any person declared blind by a licensed ophthalmologist is eligible for the blind exemption. The applicant must meet the statutory definition of blindness which is: (a) has no more than 20/200 visual acuity in the better eye when corrected; or (b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision no greater than 20 degrees. The unmarried surviving spouse or minor orphans may also qualify for the exemption. Only the property owned by the applicant as of January 1 is eligible for the exemption.

3.4.1 Property Held in Trust

If the blind claimant, is the creator (grantor) of a trust holding title to real or tangible personal property for which an exemption is claimed, the claimant must prove to the county that (s)he is able to regain legal title to the property by claimant's own action under the trust, or the action of a non-adverse party or a joint action of the claimant and the nonadverse party. The power to revoke the trust, terminate (the trust or any conveyance of property to the trust), alter or amend the trust itself, or appoint a new trustee must be present. When the claimant is not the creator (grantor) of the trust, the claimant must control the legal ownership (must be the Trustee: and must have control of the beneficial ownership of the trust or be the beneficiary of the trust). In addition, the claimant must be obligated to pay the property taxes on that portion of the trust property for the year (beginning January 1) in which the claimant claims the exemption. (Section 59-2-1106)

Key questions to ask the claimant are:

- Is the trust revocable?
- Is the claimant also the Trustee of the Trust?
- If the claimant is not the Trustee, does (s)he have the ability to appoint a new or different Trustee, can the claimant amend the trust at any time, or can the claimant withdraw or order the withdrawal of the property from the trust?

The terms “inter vivos” and “living” are typical terms located in revocable trusts. Generally, a claimant’s property included in an irrevocable trust would not be eligible for tax relief. However, each trust document is unique and must be considered on its own merits. If unable to determine if the trust qualifies, have the claimant presenting the trust bring in a letter from the attorney who prepared the trust indicating that it qualifies as a “grantor trust”, that the grantor retains ownership of the assets pursuant to Section 676 of the Internal Revenue Code, and that all income earned by the trust is taxable to the grantor.

Standard 3.5 Blind Application Process

3.5.0 Application Requirements

The application must be submitted on or before September 1 of each year with the county where the person resides. The county can extend the filing deadline until December 31, if good cause exists. The first year’s application must be accompanied by an ophthalmologist’s statement. If the blindness is not permanent, a signed ophthalmologist’s statement must be submitted each year. Click on the following link to view the form, [PT-31 Blind Persons Property Tax Exemption Application](#).

Standard 3.6 Blind Amount of Exemption

3.6.0 Amount of Exemption

The first \$11,500 of taxable value of real and tangible personal property is exempt. (Section 59-2-1106)

3.6.1 How Exemption Applies To Motor Vehicles

The county auditor/treasurer assumes the responsibility for calculating the exemption amount and supplying the taxpayer with a form that clearly states the amount of motor vehicle fee or tax to be abated for each vehicle. Click on the following link to view the form, [PT-32 Veteran with a Disability or Blind Abatement of Motor Vehicle Uniform Fees and Property Tax](#). The taxpayer will submit this completed form to the motor vehicle office at the time of registration or renewal of registration. To determine the appropriate rate refer to Page 2 of Form PT-32, which lists various personal property and the associated uniform fee, value-based uniform fee or property tax rate.

3.6.2 Refund of Overpayment

The county, granting the blind exemption under Section 59-2-1106, is to grant a refund if the claimant’s property taxes paid exceed the claimant’s property taxes due providing the amount is \$1 or more. (Section 59-2-1106)

Standard 3.7 Indigent Eligibility Requirements

3.7.0 Requirements

Any low-income person who is at least 65 years of age in the year of application is eligible to apply for an indigent abatement or deferral of property taxes on that person's owner-occupied residence or mobile home.

3.7.1 Age Exceptions

Any person under the age of 65 may be eligible if: [Section 59-2-1109(1)]

- **Extreme Hardship.** The county finds that extreme hardship would prevail if the abatement or deferral were not granted; or
- **Disability.** The statutes provide no definition or criteria for determining eligible disability.

Standard 3.8 Indigent Application Process

3.8.0 Application Deadline

The indigent application must be filed each year on or before September 1 with the county. The county can extend the filing deadline until December 31, if good cause exists. (Section 59-2-1109)

3.8.1 Required Information

The application must set forth adequate facts to support the person's eligibility for deferral or abatement to include:

- **For the 2010 application, a statement certifying that 2009 household income was equal to or less than \$28,785.** Household income means all taxable and/or non-taxable income from all sources including gross income, net rents, interest, retirement income, public assistance payments, social security, etc. (R884-24P-5)
- The county may require **proof of residency** for at least ten months of the year in the residence where the tax relief, deferral or abatement is requested;
- Signatures of both husband and wife are required if the husband and wife seek a deferral or abatement on the residence.

In addition, applicants for abatements based on hardship and/or disability must provide:

- **A signed statement detailing the circumstances of the hardship** and/or a signed statement from a licensed physician documenting the nature and extent of disability. (Section 59-2-1109)

In addition, deferral applicants must provide:

- A listing of all liquid and fixed assets other than items of nominal value;
- A listing of all assets transferred to relatives within the past three years; and,
- **Written approval** by the holder of any mortgage or trust deed outstanding on the property.

3.8.2 Claim Limits

A person may claim an abatement or deferral on only one residence.

3.8.3 Property Held in Trust

If the eligible indigent person (claimant), is the creator (grantor) of the trust holding title to real or tangible personal property for which an abatement or deferral is claimed, the claimant must prove to the county that (s) he is able to regain legal title to the property by claimant's own action under the trust, or the action of a non-adverse party or joint action of the claimant and the nonadverse party. The power to revoke the trust, terminate (the trust or any conveyance of property to the trust), alter or amend the trust itself, or appoint a new trustee must be present. When the claimant is not the creator (grantor) of the trust, the claimant must control the legal ownership (must be the Trustee; and must have control of the beneficial ownership of the trust or be the beneficiary of the trust). In addition, the claimant must be obligated to pay the property taxes on that portion of the trust property for the year (beginning January 1) in which the claimant claims the abatement or deferral. (Section 59-2-1109).

Key questions to ask the claimant are:

- Is the trust revocable?
- Is the claimant also the Trustee of the Trust?
- If the claimant is not the Trustee, does (s)he have the ability to appoint a new or different Trustee, can the claimant amend the trust at any time, or can the claimant withdraw or order the withdrawal of the property from the trust?

The terms "inter vivos" and "living" are typical terms located in revocable trusts. Generally, a claimant's property included in an irrevocable trust would not be eligible for tax relief. However, each trust document is unique and must be considered on its own merits. If unable to determine if the trust qualifies, have the claimant presenting the trust bring in a letter from the attorney who prepared the trust indicating that it qualifies as a "grantor trust", that the grantor retains ownership of the assets pursuant to Section 676 of the Internal Revenue Code, and that all income earned by the trust is taxable to the grantor.

3.8.4 Refund of Overpayment

The county, granting an indigent abatement or deferral under Section 59-2-1107, is to grant a refund if the claimant's property taxes paid exceed the claimant's property taxes due providing the amount is \$1 or more. (Section 59-2-1109)

Standard 3.9 Abatement and Deferral

3.9.0 Amount

The amount of property tax the county may abate is limited to either (1) the amount provided as a homeowner's credit for the lowest household income bracket under Section 59-2-1208, which is \$853 for 2010 or (2) one-half the tax levied, whichever is less. For example, if the tax due is \$500, the abatement is \$250. However, refer to *Standard 3.14.5 "Tax Reduction"* wherein Section 59-2-1347 allows the abatement or deferral of the entire tax liability in certain situations. Only one deferral or abatement may be granted per household. (Sections 59-2-1107 and 59-2-1108).

3.9.1 Deferred Taxes Accumulate

Taxes deferred by the county accumulate with interest. The property cannot be subject to final tax sale during the period of deferment. (Section 59-2-1108)

3.9.2 Denial of Application

The county may deny the application if the applicant is the owner of income-producing assets which could be liquidated to pay the tax. Also, any assets transferred to relatives in the preceding three-year period are to be considered by the county in making its determination.

Standard 3.10 Circuit Breaker Eligibility Requirements

3.10.0 Purpose of Circuit Breaker

The purpose of the circuit breaker program is to provide general property tax relief to certain poor taxpayers who have “income” below statutorily mandated levels and who own or rent their places of residence. The circuit breaker program provides tax credits, refunds, and appropriations from Utah’s General Fund. (Section 59-2-1201)

3.10.1 Eligible Persons

Any person providing their own financial support, who is 66 years of age in the year of application or who is a surviving spouse, regardless of age, with a household income as identified in 59-2-1208 & 1209, and who is a permanent resident of the state of Utah is eligible for a homeowner’s or renter’s credit. Click on the following link to view the homeowner’s credit form, [TC-40CY Low Income Abatement and Homeowner's Tax Credit Application](#).

3.10.2 Limitation

Only one claimant per household may apply for the credit. For the 2010 application, an applicant’s 2009 household income must be less than \$28,785.

3.10.3 Definition of “Household Income.”

Household income for the “Homeowner’s Tax Credit” means all income received by all persons of a household in the calendar year preceding the calendar year in which property taxes are due. For example, all income received during 2009 by members living in the household as of January 1, 2010.

Household income for the “Renter’s Credit” means all income received by all persons of a household for the year for which a claim is filed. For example, for an application filed in 2010, one would use 2009 household income from all household members living in the household as of January 1, 2009.

The legislature has defined “income” to include not only amounts included in a taxpayer’s federal adjusted gross income (“FAGI”), but also some additional amounts to better reflect the resources actually available to the taxpayer to meet obligations. For example, if a taxpayer’s only incoming funds consist of \$50,000 of nontaxable municipal bond interest, the taxpayer’s FAGI may be zero, yet the taxpayer would have \$50,000 with which to pay his or her tax obligation. Generally, household income includes all taxable and non-taxable income including wages, salaries, interest, dividends, trust income, alimony, support payments, disability payments, public assistance payments, retirement income, voluntary contributions to a tax-deferred retirement plan, pensions, annuities, capital gains, workman’s compensation, state unemployment insurance amounts, Social Security and Medicare payments, loss carry forwards, rental depreciation, etc. Household income does not include relief in kind supplied by a tax-exempt, non-governmental source, surplus food, or relief in kind supplied by a public or private agency. (Section 59-2-1202 and R865-9I-34).

3.10.4 Additional Information on Definition of “Household Income.”

In State Tax Commission Advisory Opinion #99-033, dated March 10, 2000, the following income items were addressed relating to the definition of income for purposes of the renter and homeowner credits (circuit breaker) for property tax:

Federal income tax refunds

Federal income tax refunds are not income. They merely reflect an extra withholding of income taxes.

Federal childcare credits

Childcare credits are generally not “income.” The credit only represents a reduction in the amount of tax a taxpayer must pay the federal government. The federal government’s decision to allow a lower tax payment does not constitute income. There is an exception however, for the amount of the child credit that is “refundable.” To the extent a taxpayer is qualified for a childcare credit in excess of his or her tax liability, the taxpayer will receive a refundable credit under IRC §24(d)(4). That refund is not merely a reduction of tax otherwise due. It represents additional income to the taxpayer. As such, it is in the nature of “cash public assistance or relief,” included in “nontaxable income” under Section 59-2-1202(6)(b)(vi) and thus also included in “income” under Section 59-2-1202(6)(a).

Federal earned income credits

The rule for federal earned income credits is the same as the rule for federal child care credits. In general, the earned income credit only represents a reduction in the amount of tax a taxpayer must pay the federal government. To the extent a taxpayer receives a refundable earned income credit under IRC §32, however, the taxpayer has essentially received cash public assistance or relief, which should be included in income for circuit breaker purposes.

Reverse mortgages

Payments received by an elderly homeowner under a reverse mortgage are not income. Each payment to the homeowner is simply a loan that will be repaid from the sales proceeds of the home on the homeowner’s death. Although the reverse mortgage may generate cash that the homeowner could use to pay property taxes, it does so by reducing the taxpayer’s non-cash assets, not by generating additional income.

Payments or reimbursements to senior program volunteers

For purposes of the circuit breaker, payments or reimbursements to senior program volunteers do not qualify as income as they are a repayment of the taxpayer’s own expenses.

Gifts

Gifts and bequests should not be taken into account in computing a taxpayer’s income under Section 59-2-1202.

3.10.5 Property Held in Trust

If the eligible person (claimant), is the creator (grantor) of a trust holding title to real or tangible personal property for which a credit is claimed, the claimant must prove to the county that (s)he is able to regain legal title to the property by claimant’s own action under the trust, or the action of a nonadverse party or a joint action of the claimant and the nonadverse party. The power to

revoke the trust (the trust or any conveyance of property to the trust), alter or amend the trust itself, or appoint a new trustee must be present. When the claimant is not the creator (grantor) of the trust, the claimant must control the legal ownership (must be the Trustee; and must have control of the beneficial ownership of the trust or be the beneficiary of the trust). In addition, the claimant must be obligated to pay the property taxes on that portion of the trust property for the year (beginning January 1) in which the claimant claims the credit. (Section 59-2-1203)

Key questions to ask the claimant are:

- Is the trust revocable?
- Is the claimant also the Trustee of the Trust?
- If the claimant is not the Trustee, does (s)he have the ability to appoint a new or different Trustee, can the claimant amend the trust at any time, or can the claimant withdraw or order the withdrawal of the property from the trust?

The terms “inter vivos” and “living” are typical terms located in revocable trusts. Generally, a claimant’s property included in an irrevocable trust would not be eligible for tax relief. However, each trust document is unique and must be considered on its own merits. If unable to determine if the trust qualifies, have the claimant presenting the trust bring in a letter from the attorney who prepared the trust indicating that it qualifies as a “grantor trust”, that the grantor retains ownership of the assets pursuant to Section 676 of the Internal Revenue Code, and that all income earned by the trust is taxable to the grantor.

3.10.6 Housing and Community Development Act

When housing assistance payments are involved under the Housing and Community Development Act, Title II, Section 8, then:

- only that portion of the rent paid by the tenant may be claimed under the terms of the Circuit Breaker Act; and
- the portion of the rent paid by the federal government to the landlord will not be considered as part of the household income since it is not subject to a claim for rebate. [R865-9I-34(G)]

3.10.7 Allowed Payments

No claim for a refund under the circuit breaker may be allowed to any person who is a recipient of public funds for the payment of rent during the period for which the claim is filed. (Section 59-2-1218) State welfare assistance is not considered public funds for the payment of rent and will not preclude a rebate. However, assistance payments must be included in income. [R865-9I-34(F)]

3.10.8 Claimant Owing Delinquent Property Taxes

Qualifying individuals owing delinquent property taxes may qualify for a homeowner’s credit. The credit may not exceed the claimant’s property tax liability for the year in which credit is requested. (Sections 59-2-1206)

3.10.9 Application Process

An application for a renter’s tax credit must be filed with the Tax Commission by December 31 each year.

An owner of a mobile home is considered a homeowner and may apply for circuit breaker credit against property taxes. A homeowner's or mobile homeowner's tax credit must be filed with the county by September 1 each year. Counties will process both the homeowner's and mobile homeowner's tax credits. If the property that a mobile home sits on is rented, then the claimant must file an application with USTC to apply for the renter refund. Click on the following link to view the form, [TC-40CB Renter Refund Application](#) (Circuit Breaker). (See *Appendix 3B for Mobile Homeowner, Circuit Breaker Application Processing Guidelines*.)

3.10.10 Deadline Extension

The Tax Commission or county may extend the time for filing a claim until December 31 of the claim year, if they find good cause to extend the deadline. (Section 59-2-1220)

3.10.11 Application Requirements

The application must be on a form approved by the Commission and include a statement of the applicant's total household income. (Section 59-2-1206)

Application for the renter's credit must include proof that the rent has been paid, the name and address of the property owner or manager, and information regarding changes of residence. (Section 59-2-1213) If rental assistance is received, include only the portion of rent the claimant paid.

Standard 3.11 Additional Homeowner Credit

3.11.0 Owner-occupied Residences

There is additional tax relief for any person qualifying for the existing homeowner's credit. The additional relief is equal to the difference in tax on 55% of market value and the tax on 35% of market value. In effect, the credit is equal to the tax on 20% of market value. (Section 59-2-1202) This credit is in addition to any other exemption or reduction for which a homeowner may be eligible for, including the homeowner's credit provided for in Section 59-2-1206. (Section 59-2-1203)

3.11.1 Example

Assume a \$100,000 home and a 1% tax rate.

$$\text{Tax on 55\% of market value} = \$100,000 \times .55 \times .01 = \$550$$

$$\text{Tax on 35\% of market value} = \$100,000 \times .35 \times .01 = \$350$$

$$\text{Credit equals } \$550 \text{ minus } \$350 \text{ or } \$200$$

Another way to figure the credit would be the following:

$$\text{Credit equals } \$100,000 \times .20 \times .01 = \$200$$

3.11.2 Tax Credit on Assessment/Tax Roll

The additional homeowner credit should be shown as a tax credit on the assessment/tax roll and not as a reduction in value for the following reasons:

- Tax Commission Rule 884-24P-36 requires that tax relief for taxpayers eligible for blind, veteran with a disability, indigent or circuit breaker be shown as credits to total taxes levied.
- It is likely that not all credits would be accounted for as a value reduction because of late filers.

- Accounting for the adjustment as a value reduction would create an additional category to be tracked for statistical reporting purposes.

3.11.3 No State Reimbursement

A county legislative body may not obtain payment from the state's General Fund for the 20% fair market value reduction. County records should distinguish between the traditional credit based upon income brackets, which is reimbursable, and the credit based on 20% of market value, which is not reimbursable. (Section 59-2-1206)

Standard 3.12 Payment of Circuit Breaker Credit

3.12.0 Amount Based On Income

The amount of a homeowner's credit is based on the applicant's household income (see schedule on application form). The homeowner's credit is deducted from taxes charged. A renter's credit application is filed directly with the Tax Commission and a direct payment is mailed to the applicant.

3.12.1 Renter's Credit

The renter's credit is based upon the applicant's household income and a percentage of the rent paid (see schedule on application form). The credit is made in the form of a direct payment to the applicant.

3.12.2 Refund of Overpayment

The county, granting an abatement or circuit breaker credit to a claimant, is to grant a refund if the claimant's property taxes paid exceed the claimant's property taxes due providing the amount is \$1 or more. (Section 59-2-1220)

Standard 3.13 Redetermination of Incorrect Claim

3.13.0 Audit

If the audit of any claim reveals that the amount was incorrectly determined, the Tax Commission or the county shall redetermine the claim and notify the claimant of its reason for redetermination. The claimant has 30 days to appeal after this notice. (Section 59-2-1214)

3.13.1 Arms-length

If it is determined by the Tax Commission that the rental of a property is not an arms-length transaction, the Commission may determine rent constituting property taxes accrued at arm's-length and the claimant may appeal within 30 days of notice. (Section 59-2-1216)

3.13.2 Excessive Claims

If the Tax Commission or county determines that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full. The credit shall be canceled, and the amount paid or claimed may be recovered by assessment. The assessment shall bear interest from the date of the claim, until refunded or paid, at the rate of 1% per month. The claimant and any person assisting in the preparation or filing of the excessive claim shall be guilty of a Class A misdemeanor. (Section 59-2-1215)

3.13.3 Negligence

If the Tax Commission or the county determines that a claim is excessive and negligently prepared, 10% of the corrected claim shall be disallowed. The improper portion of any amount paid shall be similarly recovered by assessment and the assessment shall bear interest at 1% per month from the date of payment until refunded or paid. [Section 59-2-1215(2)]

3.13.4 Disallowed Claims

A claim shall be disallowed if the Tax Commission or county finds that the claimant received title to a residence primarily for the purpose of receiving benefits. (Section 59-2-1219)

Standard 3.14 Tax Adjustment or Deferral of Delinquent Taxes

3.14.0 Application

The owner (or contract owner) of property may apply to the responsible assessing authority, either the county or the Tax Commission, for an adjustment or deferral of delinquent taxes. [Section 59-2-1347(1a) & (b)] For the purpose of this standard, taxes include interest, penalties and any associated costs. Click on the following link to view the form, [PT-33 Application for Settlement or Deferral of Delinquent Property Tax](#)

3.14.1 Required Information

On application forms approved by the Commission, the applicant shall specify:

- A description of the property including property identification number.
- The value of the property for the current year.
- The amount of delinquent taxes, interest and penalties.
- Adequate facts to support eligibility for exemption or deferral.
- The amount proposed to be paid in settlement or to be deferred.
- Both husband and wife must sign application if seeking relief on a residence in which they both reside and which they own as joint tenants.
- Any other information required by the county.

Click on the following link to view the form, [PT-33 Application for Settlement or Deferral of Delinquent Property Tax](#).

3.14.2 Mortgage Holder

If applying for a deferral, the written consent of the holder of any mortgage or trust deed outstanding on the property must be submitted with the application form. (Section 59-2-1108 & 1347) Click on the following link to view the form, [PT-33A Agreement of Lien Holder for Deferral of Settlement of Delinquent Taxes](#).

3.14.3 No Income-producing Assets

If applying for an indigent deferral, a taxpayer may not own income-producing assets that could be liquidated. (Section 59-2-1108)

3.14.4 Consideration of Transferred Assets

The county legislative body must consider any assets transferred to relatives in the prior three years when making a decision to defer taxes for the indigent.

3.14.5 Tax Reduction

1. Indigent Abatement – the lesser of (a) the amount provided as a homeowner's credit for the lowest household income bracket under Section 59-2-1208 or (b) 50% of the total tax assessed for the current year. (Section 59-2-1107)
2. Indigent deferral – if the owner of residential property is poor, the county board of equalization may, after giving notice, defer any tax levied. (Section 59-2-1108)
3. The county legislative body or the Tax Commission may accept less than the full amount of taxes due or defer all the taxes where, in their judgment, the best human interest and the interest of the state and the county are served. (Section 59-2-1347)

3.14.6 Interest Rate on Tax Deferral

1. Deferral of taxes for indigent persons on residential property must be recorded as a lien on the property and bear interest at an interest rate equal to the lesser of 6% or the target federal funds rate existing on the preceding January. The amount deferred together with accrued interest shall be due and payable when the property is sold or otherwise disposed. (Section 59-2-1108)
2. Taxes deferred, except for an indigent deferral as noted above, must be recorded as a lien on the property and bear interest at a rate equal to the lesser of 6% or the target federal funds rate existing on the preceding January. The amount deferred together with accrued interest shall be due and payable when the property is sold or otherwise conveyed. (Section 59-2-1347)

3.14.7 Adjustments

Adjustments to taxes for past years may not be made under Utah Code Ann. Section 59-2-1347 if the requested adjustment is based only on property valuation. Adjustments can be made only to taxes levied but unpaid for the five most recent tax years. Adjustments beyond five years may be granted when taxes remain unpaid as a result of administrative action or litigation. (R884-24P-41)

3.14.8 Refunds Prohibited

Taxes that have been paid may not be refunded. (R884-24P-41)

3.14.9 Settlement Approval

Any State Tax Commission action to adjust or defer taxes on centrally assessed property, pursuant to Section 59-2-1347, should be discussed with the county prior to final approval.

3.14.10 Posting Requirement

Under Section 59-2-1347, when the county or the Tax Commission grants a deferral or adjustment of taxes, notice must be posted in the county where the property is located.

This posting shall contain:

- name of the applicant,
- property address and parcel number,
- value of the property for the current year,
- sum of the delinquent taxes, interest, and penalty due, and
- adjusted amount paid or deferred. (Section 59-2-1347)

Click on the following link to view the form, [PT-34 Notice to be Posted by County of Delinquent Property Tax Settlement or Deferral](#).

3.14.11 Record

Under Section 59-2-1347, at the end of each month, the county is to send a record of all tax deferral and adjustment actions taken the preceding month to the Tax Commission on a form approved by the Tax Commission. The Tax Commission is to send a record of its tax deferral and adjustment actions to the affected county or counties.

Standard 3.15 Notification of Tax Relief Programs and Decision

3.15.0 Notice

The county should develop procedures that provide effective notice to eligible participants of all available tax relief programs.

3.15.1 Guideline

The county may notify applicants of the available programs with the “Notice of Property Valuation and Tax Changes”. [Section 59-2-919] The county may also notify or supply brochures to senior citizen centers and centers for the blind or handicapped.

3.15.2 Appeal

In the event an applicant is denied an exemption or deferral, except when the denial is based upon late filing of claim for relief, the county must notify the applicant of the right to appeal to the Tax Commission. Appeals must be filed within 30 days after the decision. (Section 59-2-1217)

Standard 3.16 Multiple Types of Tax Relief

3.16.0 Multiple Tax Relief

The county may, at its discretion and within statutory guidelines, defer or abate property taxes for indigent persons. Excluding indigent relief, when an individual is eligible for other types of statutory tax relief, the individual must be granted all the relief for which he is eligible. For example, an individual who qualifies for the veteran with a disability exemption, the blind exemption as well as the circuit breaker must be granted the veteran with a disability exemption and the blind exemption in addition to the circuit breaker relief.

Standard 3.17 Disclosure of Tax Relief

3.17.0 Tax Notice

The tax notice must show the veteran with a disability and blind exemptions and circuit breaker and indigent relief as tax credits deducted from taxes charged. (Section 59-2-1317 and R884-24P-36)

3.17.1 The Order in which Tax Relief is Applied

There may be occasions where a taxpayer’s total tax relief will exceed a taxpayer’s total tax liability. Should this occur, the order in which the relief is applied against the tax liability may affect county funds, as the circuit breaker credit is reimbursed with state funds and other credits with county funds. Accordingly, the county may, at its option, first apply the state-reimbursable circuit breaker credit to the total tax liability, then apply the other applicable credits including the Section 59-2-1202(7)(c) additional tax abatement for the poor.

Appendix 3A

Applicable Statutes and Administrative Rules

Statutes	
59-2-919	Resolution proposing tax increases
59-2-1104	Definitions – Veteran with a disability exemption – Amount of veteran’s exemption
59-2-1105	Application for veteran with a disability exemption – Rulemaking authority – Statement – County authority to make refunds
59-2-1106	Exemption of property owned by blind persons or their unmarried surviving spouses or minor orphans -Amount - Application.
59-2-1107	Indigent persons - Amount of abatement
59-2-1108	Indigent persons - Deferral of taxes – Interest rate treatment of deferred taxes.
59-2-1109	Indigent persons - Deferral, or abatement - Application
59-2-1201	Purpose of Tax Relief
59-2-1202	Definitions (Property Tax Relief)
59-2-1203	Right to file claim – Death of claimant
59-2-1204	Renter’s and homeowner’s credits authorized – No interest allowed
59-2-1205	Time for filing claim for renter’s credit
59-2-1206	Application for homeowner’s credit –Time for filing –Payment from General Fund
59-2-1207	Claim applied against tax liability – One claimant per household per year
59-2-1208	Amount of homeowner’s credit –Cost-of-living adjustment –Limitation – General Fund as source of credit
59-2-1209	Amount of renter’s credit –Cost-of-living adjustment – Limitation – General Fund as source of credit – Maximum credit
59-2-1211	Forms and instructions
59-2-1213	Statement required of renter claimant
59-2-1214	Redetermination of claim by commission or board.
59-2-1215	Fraudulent or negligently prepared claim - Penalties and interest - Procedures.
59-2-1216	Rented homestead - Rent constituting property taxes.
59-2-1217	Denial of relief - Appeal
59-2-1219	Claim disallowed if residence obtained for purpose of receiving benefits.
59-2-1220	Extension of time for filing claim.

59-2-1317	Index of property owners - Tax notice - Contents of notice.
59-2-1347	Redemption - Adjustment or deferral of taxes

Administrative Rules

R865-9I-34	Property Tax Relief for Individuals Pursuant to U.C.A. Sections 59-2-1201 through 1220.
R884-24P-5	Abatement or Deferral of Property Taxes of Indigent Persons.
R884-24P-36	Contents of Real Property Tax Notice pursuant to U.C.A. Section 59-21-1317.
R884-24P-41	Adjustment or Deferral of Property Taxes

Appendix 3B

Manufactured/Mobile Homeowners Circuit Breaker Application Processing Guidelines

1. Manufactured/Mobile Home Property Tax “Notice of Property Valuation and Tax Changes” received by taxpayer.
2. Taxpayer makes application with county.
 - a. Using state form TC-40CY or county equivalent.
 - b. Indication of lot rent paid, if any, excluding utilities.
3. County recalculates actual tax due including the additional 20% reduction for circuit breaker qualified persons.
4. County calculates circuit breaker and other abatements according to county regulations.
5. County identifies and notes on application the amount of circuit breaker credit, excluding other abatements given to customer.
6. Manufactured/mobile homeowners who rent their lot must file Form TC-40CB with USTC to apply for the renter refund.
7. County tracks circuit breaker amounts by customer for accounting and reporting.
8. County submits to the Utah State Tax Commission requests for reimbursement of Circuit Breaker funds by sending the following:
 - a. Cover letter should reflect the Reimbursement Year, the Summary of Total Count of applicants and Grand Total Amount of refunds issued to the counties’ Manufactured/Mobile Homeowners & Homeowners.
 - b. Attached Printout of all claimants with the following information:
 - Reimbursement Year
 - Grand Total Amount of Circuit Breakers to be reimbursed
 - Grand total Number of Applicants
 - Social Security Number of Applicant
 - Spouse Social Security Number
 - Name of each applicant
 - Spouse Name
 - Address
9. Utah State Tax Commission compiles information and issues reimbursement to county.

Manufactured/Mobile Homeowner Circuit Breaker Application Processing Utah State Tax Commission Guidelines

Most manufactured/mobile homeowners will apply for circuit breaker property tax relief after their mobile home property tax has been paid. Therefore, special handling is necessary for mobile home circuit breaker applicants.

In most cases, the following steps should be followed to process mobile home circuit breaker applications:

- Applicant must meet qualifications for circuit break relief.
- Identify the fair market value (FMV) from the “Notice of Property Valuation and Tax Changes.”
- Identify the tax rate (TR) from the “Notice of Property Valuation and Tax Changes.”
- Calculate the new taxable value (TV) of the mobile home, which is fair market value multiplied by .035.
Note: All primary residences receive a 45% reduction in fair market value to arrive at taxable value. Circuit Breaker applicants receive an additional 20% reduction. This totals 65% reduction in fair market value. Or, in other words, the taxable value becomes 35% of fair market value.
- If applicable, grant the veteran with a disability relief (VR).
- If applicable, grant the blind relief (BR).
- Calculate the new taxable value (NTV): $TV - VR - BR = NTV$
- Calculate the new tax amount (NTA): $NTV \times TR = NTA$
- Calculate circuit breaker (CB) relief.
- Calculate Tax (T) amount for customer: $NTA - CB = T$
- If applicable, grant indigent relief (IR).
- Identify final tax (FT) to be paid by customer: $T - IR = FT$
- Copy application.
- Ensure lot rent is noted (without utilities) on application copy.
- Ensure amount of circuit breaker granted is noted on application copy.
- Send copy of application to the Utah State Tax Commission so USTC can refund the rent portion.

Appendix 3C

2010 Tax Relief Summary Chart

Type	Eligible Persons	Filing Requirements	Eligible Property	Amount
Veteran with a Disability 59-2-1104 to 1105	Veteran with a disability, spouse or minor, orphans; Disability >10%	File annually by Sept 1; proof of service*; proof of disability*.	Primary residence and personal property.	Credit up to \$228,931 in taxable value, based on percentage of disability.
Blind 59-2-1106	Legally blind as defined by statute; spouse or minor orphans; no income requirement.	File annually by Sept 1: ophthalmologist signed statement.	Real and personal property.	Up to \$11,500 in taxable value.
Indigent Abatement 59-2-1107 to 1109	65+ years of age, or disabled, or in extreme hardship; <\$28,785 residing at property 10+ months each year.	File by Sept 1; signed statement of disability or hardship; proof of ownership; other as required by county.	Owner-occupied residence or mobile home.	½ the tax due, up to \$853.
Indigent Deferral 59-2-1108 & 1109	Same as indigent abatement; hold no income producing assets.	Same as indigent abatement; mortgage holder signed statement.	Owner-occupied residence only	All or any portion of tax; interest accrues; deferral continues until property changes hands.
Circuit Breaker Homeowner 59-2-1202 to 1220	Provide own financial support; 66+ years of age or surviving spouse; income <\$28,785 Utah resident for entire year.	File by Sept 1 with county; signed statement of income.	Owner-occupied residence only.	Up to \$853, based on annual income; additional credit equal to the tax on 20% of fair market value of residence.
Circuit Breaker Renter 59-2-1202 to 1220	Same as Homeowner Circuit Breaker	By Dec 31 with state; signed statement of income and gross rent.	Renter-occupied residence.	Up to \$853, based on percentages of gross rent.

*Only required with the initial application unless circumstances change.

Appendix 3D

Forms

To obtain the current forms associated with these standards, go to:

<http://propertytax.utah.gov/formswithstandards.html>.

[PT-30 Veteran with a Disability Property Tax Exemption Application](#)

[PT-31 Blind Persons Property Tax Exemption Application](#)

[PT-32 Veteran or Blind Abatement or Motor Vehicle Uniform Fees and Property Tax](#)

[PT-33 Application for Settlement of Deferral of Delinquent Property Tax](#)

[PT-33A Agreement of Lien Holder for Deferral of Settlement of Delinquent Taxes](#)

[PT-34 Notice to be Posted by County of Delinquent Property Tax Settlement or Deferral](#)

[TC-40CB Renter Refund Application \(Circuit Breaker\)](#)

[TC-40CY Low Income Abatement and Homeowner's Tax Credit Application](#)