

Over 65 Deduction and Over 65 Circuit Breaker Credit Frequently Asked Questions

December 24, 2008

FILING

Question: If a taxpayer, who meets all eligibility requirements, mistakenly was not allowed to apply for and receive the Over 65 Deduction and/or Over 65 Circuit Breaker Credit, what remedy is available to the taxpayer?

Answer: The Department of Local Government Finance will extend flexibility to County Auditors and Assessors to allow qualified taxpayers to file for the Over 65 Deduction and/or Over 65 Circuit Breaker Credit after the December 31, 2008 deadline if the taxpayer was in fact eligible prior to the deadline to apply for and receive the deduction for property taxes due and payable in 2009 but was not allowed to file.

Question: If an individual has already applied for and is receiving the Over 65 Deduction, is the individual also required to apply for the Over 65 Circuit Breaker Credit?

Answer: If the individual qualifies for and wishes to receive the Over 65 Circuit Breaker Credit, he or she is required to file for the Credit regardless of the status of his or her Over 65 Deduction. Because the eligibility requirements for the Over 65 Deduction differ from that of the Over 65 Circuit Breaker Credit, individuals are required to file for the deduction and credit separately. If an individual already has applied for the Over 65 Deduction and wishes to apply for the Over 65 Circuit Breaker Credit, the Credit application must be filed. An individual may qualify for just the Deduction, just the Credit or both the Deduction and Credit. The Over 65 Deduction can be received in conjunction with the Over 65 Circuit Breaker Credit.

AGE REQUIREMENT

Question: When is an individual eligible to file for and receive the Over 65 Deduction and the Over 65 Circuit Breaker Credit?

Answer: An individual who is at least 65 years of age on or before December 31 of the calendar year immediately preceding the calendar year in which property taxes are first due and payable meets the age eligibility requirement for both the Over 65 Deduction (IC 6-1.1-12-9) and the Over 65 Circuit Breaker Credit (IC 6-1.1-20.6-8.5). Therefore, if the individual is 65 years of age on or before December 31, 2008, he or she meets the age requirements and is eligible to file for and receive the Over 65 Deduction and/or Over 65 Circuit Breaker Credit on his or her 2008pay2009 property tax bill, assuming all other eligibility requirements are met.

Note: If individuals were required to be 65 years of age on or before December 31, 2007, the deduction could more accurately be described as the “Over 66” Deduction. If the deadline for filing for deductions still was June 11, the December 31, 2007 date would be accurate (i.e., must be 65 years of age by December 31, 2007 in order to file for the deduction by June 11, 2008 and receive the deduction for 2008pay2009). However, when the filing deadline was changed, the interpretation of the age deadline also changed (i.e., must be 65 years of age by December 31, 2008 in order to file for the deduction by December 31, 2008 and receive the deduction for 2008pay2009).

RESIDENCY REQUIREMENT

Question: How long is the individual required to have lived on the property in order to be eligible to file for and receive the Over 65 Deduction and the Over 65 Circuit Breaker Credit?

Answer: In order to be eligible to receive the **Over 65 Deduction**, the individual must have owned or be buying under contract the real property, mobile or manufactured home for at least one (1) year before filing for and receiving the deduction under IC 6-1.1-12-9. The individual and any co-owners also must reside on the real property, mobile or manufactured home.

In order to be eligible to receive the **Over 65 Circuit Breaker Credit**, the individual must have qualified for a Homestead Standard Deduction under IC 6-1.1-12-37 for the individual’s homestead property in the immediately preceding calendar year and must qualify for a Homestead Standard Deduction for the same homestead property in the current calendar year. The Homestead Standard Deduction requires that the property be used as the individual’s primary residence.

ASSESSED VALUE LIMITATIONS

Question: Do the assessed value limitations include all real property owned by the individual in the county, only his homestead or the real property parcel on which his residence is located?

For example, an individual owns and resides on a 2 acre parcel of land (assessed value = \$180,000) on which a dwelling is built. The dwelling and one acre of land immediately surrounding the dwelling are assessed at a value of \$120,000 (the remaining one acre has an assessed value of \$60,000). The same individual also owns the adjacent 3 acre parcel of land (assessed value = \$50,000) and a 1 acre parcel of land across town (assessed value = \$30,000).

Assessed Value Limitations	
Over 65 Deduction	\$182,430
Over 65 Circuit Breaker Credit	\$160,000

Answer: In order to be eligible to receive the **Over 65 Deduction**, the assessed value of the individual’s real property, mobile home, or manufactured home cannot exceed \$182,430 under IC 6-1.1-12-9. The individual also must reside on the real property. Therefore, the county auditor should consider the assessed value of the entire real property parcel where the individual resides, which is \$180,000 in the example above. This individual would be eligible to receive the Over 65 Deduction on the assessed value of this real property parcel assuming he meets all other eligibility requirements.

In order to be eligible to receive the **Over 65 Circuit Breaker Credit**, the gross assessed value of the homestead cannot exceed \$160,000 under IC 6-1.1-20.6-3.5; 8.5. Therefore, the county auditor should consider the assessed value of the dwelling where the individual resides and up to one (1) acre of land immediately surrounding the dwelling as this is the statutory definition of homestead. In the example above, the assessed value of the homestead is \$120,000. This individual would be eligible to receive the Over 65 Circuit Breaker Credit assuming he meets all other eligibility requirements.

INCOME LIMITATIONS

Question: Do the income limitations include only the income of the individual, the income of the individual and spouse or the income of all owners (including non-spouse) of the property?

For example, a 65-year-old individual jointly owns and resides on the real property with his older brother. The individual has an adjusted gross income of \$20,000. His older brother has an adjusted gross income of \$15,000.

Adjusted Gross Income Limitations	
Over 65 Deduction	\$25,000
Over 65 Circuit Breaker Credit	\$30,000 for individuals; \$40,000 for individual and spouse

Answer: In order to be eligible to receive the **Over 65 Deduction** (IC 6-1.1-12-9), the combined adjusted gross income of the individual and all other individuals (spouse and non-spouse) with whom the individual shares ownership cannot exceed \$25,000 for the calendar year preceding the year in which the Over 65 Deduction is claimed. Therefore, the county auditor should consider the adjusted gross income of all owners of the property when determining eligibility for the Over 65 Deduction. In the example, above the combined adjusted gross income of the individual and his brother is \$35,000 and is not eligible for the Over 65 Deduction.

In order to be eligible to receive the **Over 65 Circuit Breaker Credit** (IC 6-1.1-20.6-8.5), the adjusted gross income of the individual claiming the credit cannot exceed \$30,000 or the combine adjusted gross income of the individual and spouse cannot exceed \$40,000. Therefore, the county auditor should consider either the income of the individual filing a single income tax return or the individual and spouse filing a joint income tax return. In the example above, the county auditor would only consider the adjusted gross income of the individual, which is \$20,000. The individual is eligible to receive the Over 65 Circuit Breaker Credit on his homestead property, assuming all other eligibility requirements are met.

Note: For property taxes due and payable in 2009, the adjusted gross income considered for the Over 65 Deduction and the Over 65 Circuit Breaker Credit is that which was reported on the 2007 tax return. 2008 tax returns are not submitted until April 2009 and therefore cannot be used to determine income for deductions for taxes due and payable in 2009.

APPLYING THE DEDUCTION AND/OR CREDIT

If an individual meets all eligibility requirements for the **Over 65 Deduction**, he or she will receive a deduction from the assessed value of the real property equal to the lesser of one-half (1/2) of the assessed value of the real property or \$12,480. As described in the “Assessed Value Limitations” section, the deduction will be taken from the assessed value of the real property parcel where the individual resides. The deduction is not applied to other real property owned by the individual.

If an individual meets all eligibility requirements for the **Over 65 Circuit Breaker Credit**, he or she will receive a property tax cap that prevents his or her property tax liability on the qualified homestead property (the dwelling and up to one (1) acre of real estate) from increasing by more than 2 percent. Only the tax liability of the qualified homestead property benefits from the 2 percent cap. The cap is not applied to other real property owned by the individual.

Calculation Example for Over 65 Circuit Breaker Credit:

	2007pay2008	2008pay2009
Homestead Property Tax Liability after all Deductions from Assessed Value	\$500	\$600
Over 65 Circuit Breaker Credit	N/A	(\$90)
Homestead Property Tax Liability after application of Over 65 Circuit Breaker Credit	\$500	\$510

Maximum Property Tax Liability for 2008pay2009 limited to:
 $\$500 \times 1.02 = \510