ALICE Model Property Tax Circuit Breaker Act[1]

Rationale: Circuit breakers are an alternative to across-the-board tax cuts for taxpayers at all income levels. By limiting property taxes to a percentage of income, a circuit breaker act reduces burdensome property taxes while making what are often regressive property taxes into a more equitable tax system. A November 2009 Institute on Taxation and Economic Policy analysis found that nationwide, the poorest twenty percent of Americans paid 3.6 percent of their income in property taxes, compared to 2.7 percent of income for middle-income taxpayers and 0.7 percent of income for the wealthiest one percent of Americans. By limiting property taxes based on the ability of homeowners and renters to pay, circuit breakers therefore increase the overall progressivity of the tax system.

Summary: Creates a real property tax credit based on the income of the household and the percentage that the household pays for real property taxes. The tax credit is based on a percentage of the property taxes paid, in this model 100%, that exceeds a "maximum real property tax" level determined in the [act].

The "maximum real property tax" is determined as a percentage of household income with brackets that reduce the credit and allow households to pay a higher percentage of income in property taxes as their overall income increases.

SECTION 1. SHORT TITLE. This [act] may be cited as the "Middle Class Circuit Breaker Credit Act".

SECTION 2. DEFINITIONS. In this [act]:

(1) "Household" means a qualified taxpayer and all other persons, not necessarily related, who all reside in the residential real property owned or rented by the taxpayer, and share its furnishings, facilities and accommodations, and is not a member of another household.

(2) "Household gross income" means the aggregate adjusted gross income of all members of a household for the taxable year as reported for federal income tax purposes, or which would

[1] This model was drafted by ALICE staff. ALICE would like to thank all those who provided feedback on this draft.

be reported as adjusted gross income if a federal income tax return were required to be filed, plus any portion of the gain from the sale or exchange of property otherwise excluded from such amount.

[Policy Option: *Household Income*.[2]]

(3) "Net real property tax" means the taxes on real residential property owned and occupied by the taxpayer for which the taxpayer would be liable, including special service area taxes, and special assessments on real property for which the taxpayer would be liable to a unit of local government after any exemption or abatement received pursuant to [property tax law].

(4) "Qualified taxpayer" means a resident individual of the state who owns or rents the residential real property in which he or she resides, and has resided in for the five years immediately preceding.

(5) "Real property tax equivalent" means [twenty-five percent] of the adjusted rent paid in the taxable year by a household solely for the right of occupancy of its residence in this state for the taxable year. If a residence is rented by [two] or more individuals as cotenants, or they share in the payment of a single rent for the right of occupancy of a residence; and at least two individuals are members of different households, one or more of which shares the residence, “real property tax equivalent” is that portion of [twenty-five percent] of the adjusted rent paid in

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[2] State policymakers may want to exclude additional items from household income that are included in federal income taxes, such as this from NY S4239 (2009):
Not included in adjusted gross income; nontaxable strike benefits; supplemental security income payments; the gross amount of any pension or annuity benefits to the extent not included in such adjusted gross income (including, but not limited to, railroad retirement benefits and all payments received under the federal social security act and veterans' disability pensions); nontaxable interest received from the state of new york, its agencies, instrumentalities, public corporations, or political subdivisions (including a public corporation created pursuant to agreement or compact with another state or Canada); workers' compensation; the gross amount of "loss-of-time" insurance; and the amount of cash public assistance and relief, other than medical assistance for the needy, paid to or for the benefit of the qualified taxpayer or members of his or her household. Household gross income shall not include surplus foods or other relief in kind or payments made to individuals because of their status as victims of Nazi persecution as defined in public law 103-286 or any disability compensation received by veterans on account of injury or illness incurred or aggravated during military service in the wars in Afghanistan and Iraq since September eleventh, two thousand one. Provided, further, household gross income shall only include all such income received by all members of the household while members of such household

the taxable year which reflects the portion of the rent attributable to the qualified taxpayer and the members of the household of the qualified taxpayer.

[Policy Option: *Rent Equivalent Level*.[3]]

SECTION 3. CREDIT. A qualified taxpayer shall be allowed a credit against state income taxes due/paid, equal to [one hundred percent] of the amount by which the taxpayer's net real property tax or the taxpayer's real property tax equivalent exceeds the taxpayer's maximum real property tax, as provided under Section 4. If the credit exceeds the tax for the taxable year, the [comptroller] shall pay as an overpayment, without interest, any amount in excess of the state income tax due/paid. If a qualified taxpayer is not required to file a return, the [comptroller] shall pay as an overpayment the full amount of the credit, without interest.

[Policy Option: *Percentage of Property Tax Offered as a Credit*.[4]]

[Policy Option: *Credits for States without Income Taxes*.[5]]

SECTION 4. MAXIMUM REAL PROPERTY TAX.

(a) A qualified taxpayer's maximum real property tax shall be as follows:

(1) [three percent] of household gross income if household gross income is less than [$100,000];

(2) [three percent] of [$100,000], plus [five percent] of household gross income greater than [$100,000] but less than [$150,000];

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[3] Different states use a different number to assume the percentage of property taxes passed onto tenants in the form of a percentage of their rent. The range that have one generally use a range between 15%-25

[4] States can offer a circuit breaker based on a percentage of property taxes owed above the "maximum property tax" amount, such as fifty percent or seventy percent. States currently offer circuit breaker credits of as much as 100% of property taxes paid above the "maximum property tax" amount (Vermont). Some states cap the amount not as a percentage owned but by an amount, such as no more than $2100 (Oregon).
States offering only a partial credit might consider integrating a tax deferral mechanism to allow residents to defer property tax payments that they do not receive a full tax credit to cover. See Model **Property Tax Limitation and Deferral [Act]**

[5] States can create a credit paid out of general revenues, as Washington States has done. While not funded, this is language from SB 6809 (2008):
"A working families' tax exemption, in the form of a remittance tax due under this chapter …is provided to eligible low-income persons for sales taxes paid under this chapter"

(3) [three percent] of [$100,000] plus [five percent] of [$150,000] plus [seven percent] of household gross income in excess of [$150,000] but less than [$250,000]; and unlimited on household gross income in excess of [$250,000].

[Policy Option: *Brackets and Percentages*.[6]]

(b) The dollar amounts set forth in paragraph (a) shall be indexed for inflation for tax years beginning in the year after the effective date of this [act] and thereafter.

(1) In this paragraph, "consumer price index" means the average of the consumer price index over each [12-month] period, all items, U.S. city average, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor.

(2) No later than December 1 of each year, the department shall adjust income amounts specified each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of October of the current year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of October [of the year of enactment] as determined by the federal department of labor. The adjustment may occur only if the resulting amount is greater than the corresponding amount that was calculated for the previous year. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of [$10] if the revised amount is not a multiple of [$10] or, if the revised amount is a multiple of [$5], such an amount shall be increased to the next higher multiple of [$10].

[6] Different states offer either more or fewer (sometimes just one) income bracket for different percentages of income to cap maximum property taxes. Percentage caps in states range from 3.5% in a number of states to 9% of income (for the top bracket in Maryland). The income tax percentage and the percentage above that amount offered as a credit in Section 3 will determine the overall fiscal burden of the policy for the state.

(3) The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

SOURCE LAWS.

New York S 4239A (2009) - http://open.nysenate.gov/legislation/api/1.0/lrs-print/bill/S4239A-2009

Reports & Articles:

Property Tax Circuit Breakers, Institute on Taxation and Economic Policy (2011) - http://itepnet.org/pdf/pb10cb.pdf

The Property Tax Circuit Breaker: An Introduction and Survey of Current Programs, Center on Budget and Policy Priorities (2007) - http://www.cbpp.org/files/3-21-07sfp.pdf