

MEMORANDUM

TO: County Council March 17, 2010  
FROM: CHS  
Charles H. Sherer, Legislative Analyst  
SUBJECT: Resolution to set a public hearing concerning the intention to consider increasing the FY11 real property tax rate for the General Fund above the constant yield tax rate

**Background** The Council sets 42 property tax rates (21 on real property and 21 on personal property), including 16 in the Parking Districts. The concept of the constant yield tax rate (CYTR) applies to only one of these 42 rates, which is to the real property tax rate for the General Fund (which accounts for two-thirds of total property taxes in all funds for real and personal property). The constant yield tax rate does **not** apply to real property in the other funds nor to personal property in any of the funds. The constant yield tax rate is the rate for next year that will produce the same tax revenue in the General Fund next year as is estimated to be collected this year on property which existed this year.

**The concept of the constant yield tax rate should not be compared to the property tax rates at the Charter limit, because the CYTR applies only to one of the 42 tax rates, while the Charter limit applies to all 42 tax rates.**

The State Department of Assessments and Taxation calculates this rate. As the State explains it, "...a tax rate ...is a tax increase if it is higher than the constant yield tax rate." (© 1) When the Council sets the tax rates in May, if the Council sets a tax rate for the General Fund that is higher than the constant yield tax rate, then the Council must have previously taken two actions:

- a) informed the public of this possibility by advertisement; and
- b) held a public hearing to give the public a chance to comment (the public hearing must be held between 7 and 21 days after the advertisement, and will be on April 21).

**Rates** The relevant tax rates in dollars per \$100 of assessed value for the **General Fund** are in the table below.

Fiscal Year	Rate	Difference from CYTR
FY10 Actual	\$0.683	0.002
FY11 CYTR, calculated by the State	0.681	0.000
FY11 Executive's Recommendation	0.697	0.016
<b>FY11 Council staff's recommendation to advertise</b>	<b>0.717</b>	<b>0.036</b>

**Council action required** The Council must decide what tax rate to consider, for purposes of complying with the State law. If you are certain that you will not exceed the constant yield tax rate, then you do not have to advertise this fact, and do not have to hold a public hearing. However, if you decide that you may need to exceed the constant yield tax rate when you set tax rates in May, then you must advertise this fact and hold a public hearing.

When the Council sets tax rates in May, if you exceed the constant yield tax rate, you cannot exceed the rate you advertise for the General Fund without going through this process again. Therefore, for the public hearing, you should set the highest rate you think you might need when you approve the budgets in May. Setting a lower rate when you approve the budgets does not require any further action. Setting the rate higher than the constant yield tax rate now does not require you to approve the higher rate in May.

**Council staff recommendation:** Council staff recommends advertising 2.0¢ above the Executive's recommended rate (see table above) to give the Council flexibility: the Council could spend more than the Executive in total, and/or shift spending from the other funds to the General Fund. (Using the State's data from ©8, each 1¢ change in the General Fund tax rate results in a change in property tax revenue of roughly \$16.8 million.) Council staff does not recommend that you set the rate this high in May, but advertising this higher rate should ensure that the Council does not have to go through this process twice. Since this proposed rate exceeds the constant yield tax rate, the Council must advertise and hold a public hearing.

Contents:

Circle	Item
1	Memorandum from the State regarding CYTR
8	Worksheet
9	Advertisement, as required by the State
11	Draft resolution

BUD, FIN &  
ECON DEV



State of Maryland

DEPARTMENT OF ASSESSMENTS AND TAXATION

Office of the Director

February 12, 2010

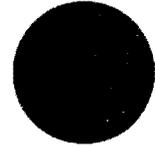
CHS  
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SBF

MARTIN O'MALLEY  
Governor

C. JOHN SULLIVAN, JR.  
Director

MEMORANDUM

054246



2010 FEB 16 AM 9:51

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

TO: All County Taxing Authorities  
FROM: C. John Sullivan, Jr., Director *[Signature]*  
RE: 2010/11 Constant Yield Tax Rate - Instructions

The Department of Assessments and Taxation is charged with administering the Constant Yield Tax Rate law. The law is found in two separate sections of the Tax-Property Article, §§ 2-205 and 6-308. The latter contains the provisions that must be followed by taxing authorities. We are here to answer your questions and assist you in complying with this law.

Although personal property is no longer a part of the constant yield tax rate calculations, the tax rate on personal property must be 2.5 times the rate on real property. Failure to comply with the constant yield tax rate law could have serious consequences for your jurisdiction. If the notice requirements are not fulfilled, the Department must notify the Attorney General, who has required jurisdictions to lower their tax rates.

Concept:

The constant yield tax rate is calculated by the Department for each taxing authority in the State. It represents the real property tax rate for the coming tax year that will generate the same amount of revenue that was generated during the current tax year. As assessments increase, the constant yield tax rate decreases. Implicit in this concept is the idea that *a tax rate at or below the existing tax rate is a tax increase if it is higher than the constant yield tax rate.* When a taxing authority plans to impose a real property tax rate that is higher than the constant yield tax rate, it must advertise the tax increase and hold a public hearing. If the taxing authority plans to set a real property tax rate at the current level, but above the constant yield tax rate, it must be advertised and a hearing must be held.

For the upcoming tax year, the assessable base of some taxing authorities has decreased. Therefore, the Constant Yield Tax Rate for those jurisdictions will actually be higher than the property tax rate for the current year. However, the legal requirements for adopting a tax rate above the Constant Yield Tax Rate remain the same. Accordingly, any taxing authority that is proposing a tax rate above the Constant Yield Tax Rate must comply with the enclosed instructions.

If the taxing authority plans to set a real property tax rate that is equal to or less than the Constant Yield Tax Rate, then the Constant Yield Tax Rate statute does not require a notice or a hearing.

## **Procedures:**

The law establishes very strict procedures governing the advertisement and the public hearing. Further, the law requires that the Department of Assessments and Taxation monitor the advertising and hearing process and report to the Attorney General any apparent violations. In the past, violations have resulted in jurisdictions being ordered to reduce the tax rate after tax bills had been issued. To avoid violating the law, you must comply with the following procedures:

- 1. Notice or Advertisement (2 options):** (1) Mail the proper notice to each property taxpayer who resides in your jurisdiction; or (2) place an advertisement in a newspaper of general circulation in your jurisdiction. If you want to mail the notice to each resident, please contact the Department for prior approval and guidance.
- 2. Form of the Notice or Advertisement:** The language is specified in the statute. An ad that deviates from the statutory requirements does not meet the requirements of the law and will be referred to the Attorney General for action. A sample notice and instructions for the arithmetic (Form CYTR#3) are included in this package. The wording in the statute is required. No part of this notice may be omitted. Additional language consistent with the intent of the law will be permitted (e.g. information regarding access to the hearing for the disabled). *Additional language designed to recast a tax rate in excess of the constant yield tax rate as anything other than a tax increase is contrary to the intent of the constant yield tax rate law and is not acceptable. It does not matter whether the additional language is within or outside the border of the required notice.* In order to minimize your advertising costs and avoid needless litigation, please use only the language provided in the sample notice. If you have any question about the acceptability of additional language, contact Mr. Joseph Wagner at the address on the following page.

If you are using the same tax rate as last year, please note that the percentage change in Section 1 and Section 2 of the advertisement will be the same but may be different than Section 4. Even though the calculations for the new real property tax revenues generated in Section 2 and Section 4 will vary due to rounding, please use the figure from Section 2 in both sections. Please use whole dollars in the advertisement and round to one decimal place in the percent changes.

We will gladly review any advertisement prior to publication. The advertisement will be checked for any errors in the text and calculations, and any additional language will be reviewed. If you wish, we will write your advertisement for you if you furnish us with your proposed tax rate(s). We will attempt to get the advertisement back to you by the next work day. Whenever possible, you will receive a response from us the same day we receive it. Please contact Mr. Wagner for additional information.

- 3. Style and Placement of the Advertisement:** The ad must be at least 1/4 of a page in size and use 18 point type. The notice must not be placed on pages with legal notices or classified advertisements. The headline must be in bold face with all capital letters. The text of the advertisement must be in regular face with mixed case letters. Be sure to emphasize these requirements with the newspaper. The sample notice enclosed shows the correct form for the advertisement.
- 4. Timing of the Advertisement and Hearing:** The hearing must be held on or after the 7<sup>th</sup> day and on or before the 21<sup>st</sup> day after the notice is published. Do not count the day of the notice or advertisement, but count the day of the hearing and all intervening calendar days, including Saturdays, Sundays, and

holidays. This means that the advertisement must appear between one and three weeks before the hearing. The hearing must be held on or before June 17 before the date required by law for imposition of the property tax. This means that the absolute latest the advertisement can be published is June 10 for a June 17 hearing.

5. **Reporting to the Department:** The taxing authority must provide a copy of the *entire* newspaper page that carried the notice or evidence that the notice was mailed to each property taxpayer. A photocopy of the newspaper page or just the advertisement itself are not acceptable. Please return the enclosed memo (Form CYTR #2). This must be sent to the Department within 15 days of the date of the advertisement. We strongly recommend that you send the Department a copy of the notice as soon as it is published, especially if the Department has not reviewed the advertisement prior to publication. We review all advertisements as soon as they are received so that if the advertisement does not conform to the law you may have time to republish it and hold a new hearing before the June 17 deadline. Failure to properly report to the Department is noncompliance that must be referred to the Attorney General.
6. **Setting the Rate:** The real property tax rate must be set at the constant yield tax rate hearing, or at a later time if the day, time, and location that the tax rate will be set is announced at the hearing. The personal property rate must be 2.5 times the real property rate.

Enclosed is the Constant Yield Tax Rate Certification (Form CYTR #1) which shows the constant yield tax rate and the associated steps in its calculation for your jurisdiction. Personal property is not part of the constant yield tax rate calculation.

Please remember that the constant yield tax rate uses an estimate of assessable real property made in February, several months before tax rates are typically set. Every effort is made to provide reliable estimates of revenue for the upcoming year. The Department issues revised estimates on a county basis in late March which may be obtained by contacting this office or from our web site at <http://www.dat.state.md.us/sdatweb/stats>.

If you should have any questions, please contact Mr. Wagner in our Headquarters Office at the address below, or me at (410) 767-4881. Thank you for your cooperation.

Questions or problems:                      Joseph Wagner, Special Assistant  
State of Maryland, Department of Assessments and Taxation  
301 West Preston Street, Room 808  
Baltimore, Maryland 21201  
Phone:            (410) 767-4884  
Fax:              (410) 333-5873  
E-mail:          [jwagner@dat.state.md.us](mailto:jwagner@dat.state.md.us)

Attachments: Sample Notice  
Form CYTR #1 (Constant Yield Tax Rate Certification)  
Form CYTR #2 (Reporting Form)  
Form CYTR #3 (Advertisement Calculation Instructions)

## 2010 Constant Yield Tax Rate Certification

Taxing authority: **Montgomery  
 County**

1	1-Jul-2009	Gross assessable real property base	\$	182,884,172,748
2	1-Jul-2009	Homestead Tax Credit	-	14,895,662,383
3	1-Jul-2009	Net assessable real property base		167,988,510,365
4	1-Jul-2009	Actual local tax rate (per \$100)	x	0.6830
5	1-Jul-2009	Potential revenue	\$	1,147,361,526
6	1-Jul-2010	Estimated assessable base	\$	175,985,084,363
7	1-Jan-2010	Half year new construction	-	1,075,366,845
8	1-Jul-2010	Estimated full year new construction*	-	442,500,000
9	1-Jul-2010	Estimated abatements and deletions**	-	6,002,184,327
10	1-Jul-2010	Net assessable real property base	\$	168,465,033,191

11	1-Jul-2009	Potential revenue	\$	1,147,361,526
12	1-Jul-2010	Net assessable real property base	÷	168,465,033,191
13	1-Jul-2010	Constant yield tax rate	\$	0.6811

Certified by

  
 \_\_\_\_\_  
 Director

\* Includes one-quarter year new construction where applicable.  
 \*\*Actual + estimated as of July 1, 2009, including Homestead Tax Credit.  
 CYTR #1



State of Maryland

DEPARTMENT OF ASSESSMENTS AND TAXATION

Office of the Director

MARTIN O'MALLEY  
Governor

C. JOHN SULLIVAN, JR.  
Director

February 12, 2010

MEMORANDUM

To: All Taxing Authorities

From: C. John Sullivan, Jr., Director *C. John Sullivan*

Re: Department Notification - Constant Yield Tax Rate Notice

Please complete this form letter and return at the appropriate time as indicated to:

Department of Assessments and Taxation  
Attention: Mr. Joseph Wagner  
301 West Preston Street, Room 808  
Baltimore, Maryland 21201

Please check one of the following:

1. The taxing authority has established a tax rate not in excess of the Constant Yield Tax Rate.

Please Respond to the Department Within 15 Days When the Tax Rate, Not Exceeding the Constant Yield Tax Rate, Is Set.

2. The taxing authority plans to exceed the Constant Yield Tax Rate and attached is a copy of the entire page of the newspaper notice or a copy of the dated notice that was mailed to each property taxpayer.

Please Respond to the Department within 15 Days of the Date of the Newspaper Notice, or Date the Notice Was Mailed to Each Property Taxpayer.

Taxing Authority: \_\_\_\_\_

*County or Municipality and the County*

Name/Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

## COUNTY NEWSPAPER NOTICE REQUIREMENTS

Headline must be all capital letters and bold type as shown.  
Remainder must be in both upper and lower case characters as shown.  
Notices must be in 18-point font. County advertisements must be  
a minimum of 1/4 page in size and  
**must not be placed with legal notices or classified ads.**

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### (NAME OF JURISDICTION) NOTICE OF A PROPOSED REAL PROPERTY TAX INCREASE

The ..... (name of taxing authority) of ..... (name of jurisdiction) proposes to increase real property taxes.

1. For the tax year beginning July 1, 2010, the estimated real property assessable base will increase by .....%, from \$..... to \$.....

2. If ..... (name of jurisdiction) maintains the current tax rate of \$..... per \$100 of assessment, real property tax revenues will increase by .....% resulting in \$..... of new real property tax revenues.

3. In order to fully offset the effect of increasing assessments, the real property tax rate should be reduced to \$....., the constant yield tax rate.

4. The ..... (county, city, town, etc.) is considering not reducing its real property tax rate enough to fully offset increasing assessments. The ..... (county, city, town, etc.) proposes to adopt a real property tax rate of \$..... per \$100 of assessment. This tax rate is .....% higher than the constant yield tax rate and will generate \$..... in additional property tax revenues.

A public hearing on the proposed real property tax rate increase will be held at ..... (time) on ..... (date) at ..... (location).

The hearing is open to the public, and public testimony is encouraged.

Persons with questions regarding this hearing may call ..... (phone number) for further information.

## Calculations for Decreasing Constant Yield Tax Rate Advertisement

Part 1: For the tax year beginning July 1, 2010, the estimated real property assessable base will increase by ❶% from \$❷ to \$❸.

$$\text{❶} = \frac{(\text{Line 10} - \text{Line 3})}{(\text{Line 3})}$$

$$\text{❷} = \text{Line 3}$$

$$\text{❸} = \text{Line 10}$$

Part 2: If county/city/town maintains the current real property tax rate of \$❹ per \$100 of assessment, real property tax revenues will increase by ❺% resulting in \$❻ of new real property tax revenues.

$$\text{❹} = \text{Line 4}$$

$$\text{❻} = \frac{\text{Line 10} \times \text{Line 4}}{100} - \frac{\text{Line 3} \times \text{Line 4}}{100}$$

$$\text{❺} = \frac{\text{❻}}{\frac{\text{Line 3} \times \text{Line 4}}{100}}$$

Part 4: This tax rate is ❽% higher than the constant yield tax rate and will generate \$❾ in additional real property tax revenues.

$$\text{❽} = \frac{(\text{Proposed Rate} - \text{Line 13})}{\text{Line 13}}$$

❾ = If your proposed rate is the same as your current rate, use ❺. Otherwise use this:

$$= \frac{\text{Line 10} \times \text{Proposed Rate}}{100} - \frac{\text{Line 10} \times \text{Line 13}}{100}$$

NOTE: Line numbers correspond with the line numbers of form CYTR #1.

**Maryland Department of Assessments and Taxation February 9, 2010  
Constant Yield Tax Rate Certification for Montgomery County For FY11**

3	01-Jul-2009 Net assessable real property base	167,988,510,365
4	01-Jul-2009 Actual local tax rate	0.683
5	01-Jul-2009 Potential revenue	1,147,361,526
6	01-Jul-2010 Estimated assessable real property base	
7	01-Jan-2010 Half year new construction	
8	01-Jul-2010 Estimated full year new construction*	
9	01-Jul-2010 Estimated abatements and deletions**	
10	01-Jul-2010 Net assessable real property base	168,465,033,191
11	01-Jul-2009 Potential revenue (from #5 above)	1,147,361,526
12	01-Jul-2010 Net assessable real property base (from #10 above)	168,465,033,191
13	01-Jul-2010 Constant yield tax rate (rounded to 4 decimal places)	0.6811
	CYTR is this much below the current tax rate	(0.002)

\* Includes one-quarter year new construction where applicable.

\*\*Actual + estimated as of July 1, 2005, including Homestead Tax Credit.

Line 3	Assessable base, current year	167,988,510,365
Line 4	Tax rate, current year	0.683
Line 10	Assessable base, next year	168,465,033,191
Line 11	CYTR	0.6811
NLN1	CE rate	0.697
NLN2	Proposed rate to advertise	0.717
NLN3	Proposed rate exceeds CYTR by	0.036
NLN4	CE rate exceeds CYTR by	0.016

Circle 1	% change in assessable base	0.3%
Circle 2	Assessable base, current year	167,988,510,365
Circle 3	Assessable base, next year	168,465,033,191
Circle 4	Tax rate, current year	0.683
Circle 5	% change in tax at current rate	0.3%
Circle 6	\$ change in tax at current rate	3,254,651
Circle 7	% change from CYTR to proposed rate	5.3%
For circle 8, use circle 6 if proposed rate = current rate. Otherwise, use number on row below.		
Circle 8	Additional revenue from proposed rate, compared to CYTR	60,478,947

	Revenue, CE rate	1,174,201,281
	Revenue, proposed rate	1,207,894,288
	Difference	33,693,007

(8)

## Sherer, Chuck

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**From:** JOE WAGNER [JWagner@dat.state.md.us]  
**Sent:** Mar 19, 2010 8:22  
**To:** Sherer, Chuck  
**Subject:** Re: Montgomery County's advertisement for the CYTR



Montgomery Co  
approved Adverti...

Dear Mr. Sherer,

Thank you for your prompt response with regard to your constant yield advertisement. Your ad is approved (attached). Please refer to the original instructions for the specifics on the timing of the placement of the ad.

Please contact me if you have any further questions. Regards, Joe.

Joe Wagner  
State of Maryland  
Dept. of Assessments and Taxation  
Special Assistant to the Director  
301 West Preston St. Room 808  
Baltimore MD 21201  
phone: 410-767-4881

>>> "Sherer, Chuck" <Chuck.Sherer@montgomerycountymd.gov> 3/17/2010  
10:44 AM >>>

Mr. Wagner, I would like to take you up on your offer to review our advertisement, which is attached. Thank you.

Chuck Sherer

Charles H. Sherer, Legislative Analyst  
Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850  
240-777-7942  
chuck.sherer@montgomerycountymd.gov  
Fax: 240-777-7888

## COUNTY NEWSPAPER NOTICE REQUIREMENTS

Headline must be all capital letters and bold type.  
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Notices must be 18 point. County advertisements must be  
a minimum of 1/4 page in size and  
**must not be placed with legal notices or classified ads.**

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## MONTGOMERY COUNTY NOTICE OF A PROPOSED REAL PROPERTY TAX INCREASE

The County Council of Montgomery County proposes to increase real property taxes.

1. For the tax year beginning July 1, 2010, the estimated real property assessable base will increase by 0.3%, from \$ 167,988,510,365 to \$ 168,465,033,191.
2. If Montgomery County maintains the current tax rate of \$0.683 per \$100 of assessment, real property tax revenues will increase by 0.3% resulting in \$3,254,651 of new real property tax revenues.
3. In order to fully offset the effect of increasing assessments, the real property tax rate should be reduced to \$0.681, the constant yield tax rate.
4. The County is considering not reducing its real property tax rate enough to fully offset increasing assessments. The County proposes to adopt a real property tax rate of \$0.717 per \$100 of assessment. This tax rate is 5.3% higher than the constant yield tax rate and will generate \$60,478,947 in additional property tax revenues.

A public hearing on the proposed real property tax rate increase will be held at 1:30 PM on April 27, 2009 at 100 Maryland Avenue, Rockville, Maryland in the Council Office Building in the 3rd floor hearing room. The hearing is open to the public, and public testimony is encouraged. Persons with questions regarding this hearing may call 240-777-7900 for further information.

Resolution No: \_\_\_\_\_  
Introduced: April 6, 2010  
Adopted: \_\_\_\_\_

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND

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By: County Council

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SUBJECT: Setting a public hearing concerning the intention to consider increasing the FY11 property tax rate for the General Fund above the constant yield tax rate

Background

- (1) As required by Title 6-308 of the Property Tax Article of the Annotated Code of Maryland, the County Council must hold a public hearing concerning its intention to consider increasing the tax rate for the General Fund above the State-certified constant yield tax rate for FY11 of \$0.681 per \$100 of assessed valuation.
- (2) On March 15, 2010, the County Executive proposed an FY11 tax rate for the General Fund of \$0.697 per \$100 of assessed valuation. On March 30, 2010, the Council agreed to advertise a rate of \$0.717 and will publish the advertisement in a newspaper of general circulation in Montgomery County no fewer than seven days and no more than 21 days before the public hearing.

Action

On April 27, 2010, at 1:30 p.m., the Council will hold a public hearing regarding the Council's intention to consider increasing the tax rate for the General Fund above the constant yield tax rate. The Council will provide an opportunity for the public to comment regarding the tax rate which exceeds the constant yield tax rate. For the General Fund, the County Council will advertise \$0.717. This rate exceeds the constant yield tax rate of \$0.681 by 3.6¢.

This is a correct copy of Council action.

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Linda Lauer, Clerk of the Council