

**MEMORANDUM**

June 26, 2015

TO: County Council

FROM: <sup>EO</sup> Glenn Orlin, Deputy Council Administrator  
Amanda Mihill, Legislative Attorney *Mihill*

SUBJECT: **Introduction:** Bill 34-15, Taxes - Transportation and School Impact Tax - Amendments

Bill 34-15, Taxes - Transportation and School Impact Tax - Amendments, sponsored by Lead Sponsors Councilmembers Rice and Elrich is scheduled to be introduced on June 30, 2015. A public hearing is tentatively scheduled for July 21 at 1:30 p.m.

Bill 34-15 would:

- revise the application of the transportation and school impact tax in a former enterprise zone;
- revise the life of a credit certified after a certain date for transportation and school impact taxes;
- allow a transportation impact tax credit for reconstruction of an existing road;
- eliminate Metro Station Policy Areas and Clarksburg as separate tax districts and incorporate those areas into the Countywide tax; and
- eliminate the separate tax rates within 0.5 miles of certain MARC stations.

This packet contains:

Bill 34-15  
Legislative Request Report

Circle #

1  
7

Bill No. Bill 34-15  
Concerning: Taxes – Transportation and  
School Impact Tax - Amendments  
Revised: 6/23/2015 Draft No. 1  
Introduced: June 30, 2015  
Expires: December 30, 2016  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

Lead Sponsors: Councilmembers Rice and Elrich

---

**AN ACT** to:

- (1) revise the application of the transportation and school impact tax in a former enterprise zone;
- (2) revise the life of a credit certified after a certain date for transportation and school impact taxes;
- (3) allow a transportation impact tax credit for reconstruction of an existing road;
- (4) eliminate Metro Station Policy Areas and Clarksburg as separate tax districts and incorporate those areas into the Countywide tax;
- (5) eliminate the separate tax rates within 0.5 miles of certain MARC stations; and
- (4) generally amend County law regarding transportation and school impact taxes.

By amending

Montgomery County Code  
Chapter 52, Taxation  
Sections 52-47, 52-49, 52-53, 52-55, 52-57, 52-58, 52-89, and 52-93

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



28 according to the municipality where the funds originated. These tax  
29 revenues must be used only to fund transportation improvements listed in  
30 a memorandum of understanding between the County and the respective  
31 City, which must be approved by the County Council. If the County and  
32 the respective City do not agree on a memorandum of understanding  
33 regarding the use of impact tax revenues, the County Council may  
34 appropriate funds to improvements which are consistent with the master  
35 plan of the respective City after holding a separate hearing on any specific  
36 improvement if the City so requests.

37 [(f)] (d) A development impact tax must not be imposed on any building owned,  
38 and used primarily, by any agency or instrumentality of federal, state,  
39 County, or municipal government.

40 [(g)] (e) A development impact tax must not be imposed on:

- 41 \* \* \*
- 42 (5) any development located in an enterprise zone currently  
43 designated by the State [or in an area previously designated as an  
44 enterprise zone].

45 [(h)] (f) The development impact tax does not apply to:

- 46 \* \* \*

47 **52-53. Restrictions on use and accounting of development impact tax funds.**

- 48 \* \* \*

49 [(h) Development impact tax funds collected from the Clarksburg impact tax  
50 district must be used for impact transportation improvements located in  
51 or that directly benefit the Clarksburg policy area.]

52 **52-55. Credits.**

- 53 \* \* \*

54 (b) A property owner must receive credit for constructing or contributing to  
 55 an improvement of the type listed in Section 52-58 if the improvement  
 56 reduces traffic demand or provides additional transportation capacity.  
 57 However, the Department must not certify a credit for any improvement  
 58 in the right-of-way of a State road, except a transit or trip reduction  
 59 program that operates on or relieves traffic on a State road or an  
 60 improvement to a State road that is included in a memorandum of  
 61 understanding between the County and either Rockville or Gaithersburg.

62 \* \* \*

63 (4) Any credit that was certified under this subsection on or after  
 64 March 1, 2004, and before February 28, 2015, expires 6 years after  
 65 the Department certifies the credit. Any credit that was certified  
 66 under this subsection on or after March 1, 2015, expires 12 years  
 67 after the Department certifies the credit.

68 \* \* \*

69 **52-57. Tax rates.**

70 (a) [The tax rates for each impact tax district, except] Except as provided in  
 71 subsection (b), the Countywide rates for the tax under this Article are:

<i>Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)</i>			
<i>Building Type</i>	<i>[Metro Station]</i>	<i>[Clarksburg]</i>	<i>[General] Tax</i>
Single-family detached residential (per dwelling unit)	[\$2750]	[\$8250]	\$5500
Single-family attached residential (per dwelling unit)	[\$2250]	[\$6750]	\$4500
Multifamily residential (except high-rise) (per dwelling unit)	[\$1750]	[\$5250]	\$3500
High-rise residential (per dwelling unit)	[\$1250]	[\$3750]	\$2500

Multifamily-senior residential (per dwelling unit)	[\$500]	[\$1500]	\$1000
Office (per sq. ft. GFA)	[\$2.50]	[\$6]	\$5
Industrial (per sq. ft. GFA)	[\$1.25]	[\$3]	\$2.50
Bioscience facility (per sq. ft. GFA)	[\$0]	[\$0]	\$0
Retail (per sq. ft. GFA)	[\$2.25]	[\$5.40]	\$4.50
Place of worship (per sq. ft. GFA)	[\$0.15]	[\$0.35]	\$0.30
Private elementary and secondary school (per sq. ft. GFA)	[\$0.20]	[\$0.50]	\$0.40
Hospital (per sq. ft. GFA)	[\$0]	[\$0]	\$0
Other nonresidential (per sq. ft. GFA)	[\$1.25]	[\$3]	\$2.50

72

73

\* \* \*

74

(e) [Any building that would be located within one-half mile of the Germantown, Metropolitan Grove, Gaithersburg, Washington Grove, Garrett Park, or Kensington MARC stations must pay the tax at 85% of the applicable rate calculated in subsection (a).

75

76

77

78

(f) The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates set in this Section.

79

80

81

[(g)] (f) The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section on July 1 of each odd-numbered year by the annual average increase or decrease in a published construction cost index specified by regulation for the two most recent calendar years. The Director must calculate the adjustment to the nearest multiple of 5 cents for rates per square foot of gross floor area or one dollar for rates per dwelling unit.

82

83

84

85

86

87

88 The Director must publish the amount of this adjustment not later than  
89 May 1 of each odd numbered year.

90 **52-58. Use of impact tax funds.**

91 Impact tax funds may be used for any:

- 92 (a) New road, [or] widening of an existing road, or total reconstruction of all
- 93 or part of an existing road required as part of widening of an existing road
- 94 that adds highway or intersection capacity or improves transit service or
- 95 bicycle commuting, such as bus lanes or bike lanes.

96 \* \* \*

97 **Sec. 2. Sections 52-89 and 52-93 are amended as follows:**

98 **52-89. Imposition and applicability of tax.**

99 \* \* \*

- 100 (c) The tax under this Article must not be imposed on:

101 \* \* \*

- 102 (5) any development located in an enterprise zone designated by the
- 103 State [or in an area previously designated as an enterprise zone].

104 **52-93. Credits.**

105 \* \* \*

- 106 (g) [Any] Except for a credit authorized under paragraph (e):
- 107 (1) any credit issued under this Section before February 28, 2015,
- 108 expires 6 years after the Director certifies the credit; and
- 109 (2) any credit that was certified under this subsection on or after March
- 110 1, 2015 expires 12 years after the Department certifies the credit.

## LEGISLATIVE REQUEST REPORT

Bill 34-15

*Taxes – Transportation and School Impact Tax – Amendments*

<b>DESCRIPTION:</b>	Bill 34-15 would revise the application of the transportation and school impact tax in a former enterprise zone, revise the life of a credit certified after a certain date for transportation and school impact taxes, allow a transportation impact tax credit for reconstruction of an existing road, eliminate Metro Station Policy Areas and Clarksburg as separate tax districts and incorporate those areas into the Countywide tax, and eliminate the separate tax rates within 0.5 miles of certain MARC stations.
<b>PROBLEM:</b>	The rate categories for transportation impact taxes and school impact taxes differ. Additionally, it can be ambiguous where credits are earned when a road is constructed.
<b>GOALS AND OBJECTIVES:</b>	To simplify the rate schedule and align the transportation impact tax rate with the structure of the school impact tax, to clarify applicable credits when a road is constructed, and to provide developers with flexibility to use a credit that they have earned.
<b>COORDINATION:</b>	Departments of Permitting Services and Finance
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Glenn Orlin, Deputy Council Administrator, 240-777-7936 Amanda Mihill, Legislative Attorney, 240-777-7815
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Taxes are applicable within municipalities.
<b>PENALTIES:</b>	N/A