MEMORANDUM

April 29, 2014

TO: Government Operations and Fiscal Policy Committee

FROM: Jacob Sesker, Senior Legislative Analyst

SUBJECT: FY15 Property Tax: Amount of revenue, credit, and rate

PURPOSE

The Committee must recommend the amount of the property tax credit for income tax offset, the amount of property tax revenue that should be raised to fund the FY15 budget, and the weighted property tax rate. Decisions on any two of these will effectively determine the third—for example, determining the amount of property tax revenue and the amount of the credit effectively determines the weighted property tax rate.[1]

The Executive recommends setting property tax revenue at the Charter limit[2] with a credit of $692 ($1,549.9 million).[3] To set property tax revenue at the Charter limit and maintain the current credit of $692 requires decreasing the weighted property tax rate from $1.010 to $0.996 per $100 of taxable value. Every year at this time the Government Operations and Fiscal Policy Committee considers its options with respect to the amount of revenue, the amount of the credit, and the weighted average real property tax rate. If the Committee requests alternative options, Council Staff will work with Finance to provide responses over the next few days.

ISSUES RAISED IN TESTIMONY

Mr. Louis Wilen testified that owners of 93,230 properties did not claim "principal residence" status by the December 31, 2013 deadline established in the Homestead Verification Act. He asserted that the 93,230 properties would lose their income tax offset credit eligibility, resulting in an increase in revenue of more than $64.5 million. *See Wilen testimony,* © 7-8.

In his response, Mr. Beach acknowledged that at least 75,869 properties could lose eligibility for the Homestead Tax Credit for failure to file an application when all pending applications in Montgomery County

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[1] These decisions ultimately take the form of a resolution to set the property tax credit for income tax offset, and a tax levy resolution that includes the tax rates for all of the property taxes that are part of the weighted property tax rate.

[2] Charter §305 limits increases in real property tax revenue to the rate of inflation, excluding specified exceptions (new construction, development districts, etc.). Nine affirmative votes are required to exceed the Charter limit.

[3] As a reminder, the Council held a public hearing on the income tax offset credit on April 22nd.

are processed by SDAT. However, Mr. Beach indicates that neither Section 52-11B of the County Code (authorizing the Income Tax Offset Credit) nor Section 9-105 of the State Tax-Property Article authorizes the County to use ineligibility for the Maryland Homestead Tax Credit based on failure to file the application with SDAT as the basis for classifying a Montgomery County homeowner as ineligible for the Income Tax Offset Credit. *See Beach Response, © 9.*

AMOUNT OF PROPERTY TAX REVENUE

The Executive has proposed property tax revenue at $1,538.9 million, not including parking districts ($1,549.9 million with parking districts). The Executive's recommendation sets property tax revenue at the Charter limit; the Council could set property tax rates above the Charter limit if all nine Councilmembers vote to do so.[4]

The ten-year history of revenue by category shows that, while property tax revenue has increased over the last decade, property tax revenue as a percentage of total revenue has remained relatively constant, falling below 30% of total revenue only in FY07 and FY08 (corresponding with a sharp increase in revenue from the income tax), and peaking in FY10 (corresponding with a precipitous decline in income tax revenue). The Executive recommends property tax revenue at 31.3% of total revenue for FY15. *See Schedule F-2 (10-year history of revenue), © 3.*

Staff recommends setting property tax revenue at the Charter limit with a credit of $692.

INCOME TAX OFFSET CREDIT

Under County Code §52-11B, the Council is authorized to set, by resolution, the amount or rate of a property tax credit to offset a portion of the income tax revenue resulting from a County income tax rate that is higher than 2.6% (the County income tax rate is currently 3.2%). The credit applies only to owner-occupied principal residences.

§52-11B(c): The County Council must set the amount or rate of the credit under this Section annually by resolution, adopted no later than the date the Council sets the property tax rates. A public hearing must be held, with at least 15 days' notice, before the Council adopts a resolution under this Section. The amount or rate of the credit must, in the Council's judgment, offset some or all of the income tax revenue resulting from a County income tax rate higher than 2.6%. The Council must set the amount of the credit at zero for any tax year in which the rate of the County income tax does not exceed 2.6%.

The credit shifts a portion of the County's property tax burden to non-homeowners (including commercial property owners and residential renters). The Council sets the credit as a specific amount, rather than as a percentage of value; consequently, the credit adds a degree of progressivity to the property tax.

For FY15, approximately 250,000 households will be eligible for the credit, down slightly from FY14 (although the estimated total number of households will increase from an estimated 372,000 in 2014 to 377,500 in 2015). At $692 per household, total credits for those households are estimated at $168.3 million (not all households are eligible for the entire $692 credit).

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[4]The Council could also increase (slightly) property tax revenues without exceeding the Charter limit by increasing both the rate and credit. This would occur because increases in the rate would result in a slight increase in personal property tax revenue as well as an increase in property tax revenue from new construction.

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If the Council chooses to set property tax revenue at the Charter limit and chooses to reduce the credit, the Council would need to further reduce the property tax rate below the CE's recommended rate. In this scenario, the results would include (1) a slight decrease in property tax revenue at the Charter limit[5], (2) a less progressive property tax regime among homeowners eligible for the credit, and (3) a shift of a portion of the overall property tax burden from those who are not eligible for the credit (commercial properties, residential renters) to those who are eligible for the credit (resident homeowners).

Alternatively, if the Council chooses to set property tax revenue at the Charter limit and also chooses to increase the credit, the Council would need to increase the property tax rate above the CE's recommended rate.[6] In this scenario, the results would include (1) a slight increase in property tax revenue at the Charter limit, (2) a more progressive property tax regime among homeowners eligible for the credit, and (3) a shift of a portion of the overall property tax burden from those who are eligible for the credit (resident homeowners) to those who are not eligible for the credit (commercial properties, residential renters).

Table 1: Weighted property tax rates and income tax offset credit, FY00-FY14

Fiscal Year	Weighted real property tax rate (per $100)	Change	ITOC
2000	$1.006	($0.011)	$0
2001	$1.006	$0.000	$0
2002	$1.006	$0.000	$0
2003	$1.005	($0.001)	$0
2004	$1.005	$0.000	$0
2005	$0.995	($0.010)	$0
2006	$0.953	($0.042)	$116
2007	$0.903	($0.050)	$221
2008	$0.903	$0.000	$613
2009	$0.903	$0.000	$579
2010	$0.904	$0.001	$690
2011	$0.904	$0.000	$692
2012	$0.946	$0.042	$692
2013	$0.991	$0.045	$692
2014	$1.010	$0.019	$692
2015R	$0.996	($0.014)	$692

Historically, the amount of the credit has moved in only one direction. The Council reduced the credit once since 2000—from $613 in FY08 to $579 in FY09, before increasing it to $690 the following year. The Council has set the credit at its current level of $692 when funding the FY11 to FY14 budgets, and the Executive has proposed setting the credit at $692 again for FY15.

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[5] This is because the rate also applies to property taxes that are not subject to the Charter limit, including personal property taxes paid by businesses (that rate is 2.5 times greater than real property tax rate) and also to newly constructed or re-zoned real property.

[6] For example, increasing the credit by $20 would require also increasing the rate by approximately 0.3¢.

The proposed resolution to set the income tax offset credit at $692 is attached at © 1.

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Staff recommends setting the income tax offset credit at $692.

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PROPERTY TAX RATE

The property tax rate is a function of the taxable base (the value of taxable property), credits, and the amount of revenue to be raised by the property tax.

- The amount of revenue to be raised by the property tax is a function of limitations (such as the Charter limit), demands for resources (such as levels of service), and other sources of revenue available to pay for demands for resources (such as income tax revenue).
- Credits are a function of policy.
- The taxable real property base is primarily a function of real estate market conditions. Real property reassessments declined for 4 consecutive years (from 2009 to 2012) as a result of negative real estate market conditions, but increased slightly during this most recent reassessment cycle, reflecting current market conditions.

The County Executive's recommended weighted average property tax rate in FY15 ($0.996 per $100) is just slightly above the weighted average property tax rate for FY05 ($0.995). *See Schedule F-6 (Historical Analysis of Weighted Real Property Tax Rates), © 4.* Rates declined from FY05 to FY07 because the taxable base increased in value. Rates increased in FY12 and FY13 because the taxable base decreased in value. The proposed FY15 total weighted property tax rate (including Maryland property taxes) is still lower than the FY05 rate—this is attributable to the decline in the State's property tax rate. *See also Average Tax Burden, © 5, and County Taxes as a Share of Personal Income, © 6.*

To reduce the rate by 1.0¢ while holding the credit constant would reduce real property tax revenue by $16.3 million (total real and personal property tax revenue would decrease by $16.9 million). A similar increase in real property tax revenue would result if the rate were increased by 1.0¢, only if all nine Councilmembers vote to exceed the Charter limit. Of course, the Council could support both an increase in the rate and an offsetting increase in the credit that would keep revenue at the Charter limit. Large increases in the credit would be necessary to offset small increases in the property tax rate.

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Staff recommends setting the property tax rate at $0.996, the rate at which property tax revenue is at the Charter limit with a credit of $692.

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Attachments:
- © 1 Proposed resolution to set the income tax offset credit
- © 2 Schedule F-2 (10-year history of revenue)
- © 3 Schedule F-6 (Historical Analysis of Weighted Real Property Tax Rates
- © 4 Average Tax Burden
- © 5 County Taxes as a Share of Personal Income
- © 6 Spreadsheet
- © 7 Testimony of Louis Wilen
- © 9 Response of Joe Beach, Director of Finance

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COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

SUBJECT: Property Tax Credit for Income Tax Offset

Background

1. County Code Section 52-11B authorizes the County Council by resolution to set the rate or amount of the property tax credit to offset certain income tax revenues resulting from a County income tax rate higher than 2.6%.

2. The County Executive has recommended the amount of property tax credit under County Code Section 52-11B for the tax year beginning July 1, 2014 to be $692 for each eligible taxpayer.

3. A public hearing was held on April 22, 2014.

Action

The County Council for Montgomery County, Maryland, approves the following action:

The amount of the property tax credit under County Code Section 52-11B for the tax year beginning July 1, 2014 is $692 for each eligible taxpayer.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

TEN-YEAR HISTORY OF REVENUE BY MAJOR CATEGORY AND AS A PERCENT OF TOTAL REVENUE

(In Millions)

FISCAL YEAR	PROPERTY TAX $	PROPERTY TAX %	INCOME TAX $	INCOME TAX %	TRANSFER TAX $	TRANSFER TAX %	OTHER TAXES $	OTHER TAXES %	LICENSES & PERMITS $	LICENSES & PERMITS %	CHARGES FOR SERVICES $	CHARGES FOR SERVICES %	INTERGOV. AID $	INTERGOV. AID %	FINES & MISC REVENUE $	FINES & MISC REVENUE %	TOTAL REVENUE* $
FY15 Rec	1,549.9	31.3	1,340.6	27.1	169.6	3.4	288.7	5.8	49.0	1.0	406.4	8.2	1,006.7	20.4	135.5	2.7	4,946.4
FY14 Estimate	1,517.6	30.8	1,365.9	27.7	159.5	3.2	291.0	5.9	52.8	1.1	395.8	8.0	976.0	19.8	165.4	3.4	4,924.0
FY14 Approved	1,514.5	31.3	1,299.2	26.9	150.6	3.1	279.3	5.8	42.3	0.9	402.3	8.3	978.6	20.3	165.5	3.4	4,832.2
FY13 Actual	1,486.0	31.2	1,317.5	27.6	151.3	3.2	295.1	6.2	52.1	1.1	389.0	8.2	939.4	19.7	136.5	2.9	4,767.0
FY12 Actual	1,447.9	31.3	1,255.1	27.2	127.3	2.8	295.3	6.4	50.0	1.1	371.5	8.0	911.2	19.7	163.0	3.5	4,621.3
FY11 Actual	1,430.2	33.1	1,039.2	24.1	129.5	3.0	305.2	7.1	41.3	1.0	352.9	8.2	879.0	20.4	141.8	3.3	4,319.2
FY10 Actual	1,447.4	34.6	1,042.1	24.9	125.1	3.0	205.6	4.9	38.1	0.9	328.2	7.8	861.2	20.6	140.9	3.4	4,188.5
FY09 Actual	1,374.9	32.4	1,291.7	30.5	109.8	2.6	179.2	4.2	33.1	0.8	313.2	7.4	782.5	18.5	153.6	3.6	4,238.1
FY08 Actual	1,224.0	29.8	1,291.3	31.5	135.0	3.3	168.7	4.1	37.6	0.9	298.1	7.3	774.8	18.9	173.2	4.2	4,102.8
FY07 Actual	1,180.7	29.5	1,265.4	31.7	179.6	4.5	168.1	4.2	34.5	0.9	289.4	7.2	719.1	18.0	160.1	4.0	3,996.8
FY06 Actual	1,115.1	30.0	1,044.6	28.1	241.7	6.5	164.8	4.4	32.7	0.9	287.1	7.7	688.5	18.5	139.9	3.8	3,714.4

* Totals do not include uses of prior year reserves or transfers

SCHEDULE F-6

HISTORICAL ANALYSIS OF WEIGHTED REAL PROPERTY TAX RATES MONTGOMERY COUNTY Average Weighted Rate Per $100 of Assessed Value				
Fiscal Year	Total	Maryland	Municipalities	Montgomery County
2015	$1.152	$0.112	$0.044	$0.996
2014	$1.167	$0.112	$0.045	$1.010
2013	$1.148	$0.112	$0.045	$0.991
2012	$1.101	$0.112	$0.043	$0.946
2011	$1.060	$0.112	$0.044	$0.904
2010	$1.057	$0.112	$0.041	$0.904
2009	$1.055	$0.112	$0.040	$0.903
2008	$1.057	$0.112	$0.042	$0.903
2007	$1.058	$0.112	$0.043	$0.903
2006	$1.130	$0.132	$0.045	$0.953
2005	$1.173	$0.132	$0.046	$0.995

Notes: "Montgomery County" is the weighted average of proposed rates for the tax-supported property revenues and do not include parking lot districts.
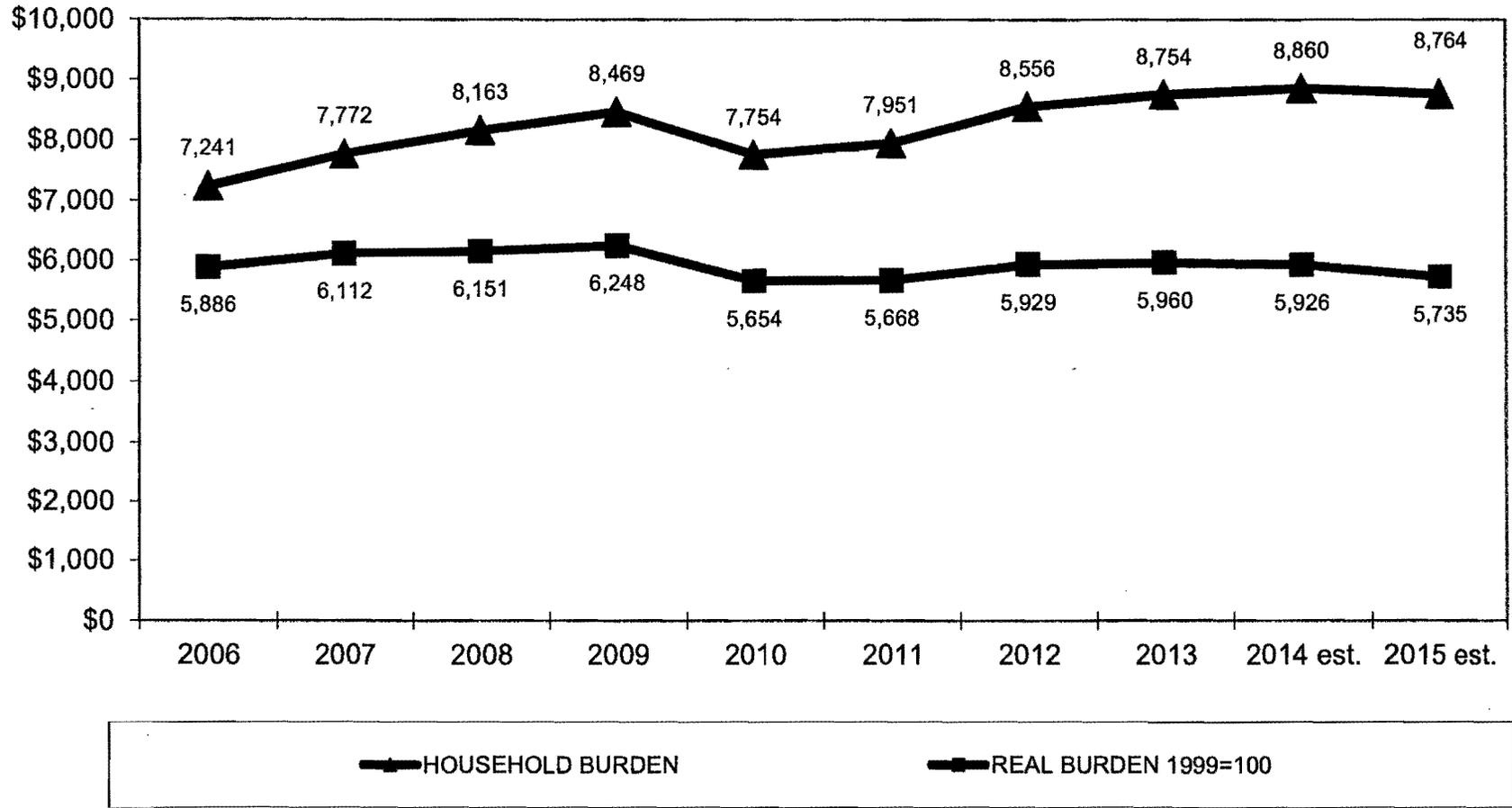
"Municipalities" are the weighted average of approximately 23 municipal districts and are based on estimated taxable assessments for FY15.

FY2014 weighted rate revised based on updated assessment estimates for FY14

MONTGOMERY COUNTY DEPARTMENT OF FINANCE   **MARCH 2014**

AVERAGE TAX BURDEN MONTGOMERY COUNTY BY FISCAL YEAR

HOUSEHOLD BURDEN values: 7,241 (2006); 7,772 (2007); 8,163 (2008); 8,469 (2009); 7,754 (2010); 7,951 (2011); 8,556 (2012); 8,754 (2013); 8,860 (2014 est.); 8,764 (2015 est.)

REAL BURDEN 1999=100 values: 5,886 (2006); 6,112 (2007); 6,151 (2008); 6,248 (2009); 5,654 (2010); 5,668 (2011); 5,929 (2012); 5,960 (2013); 5,926 (2014 est.); 5,735 (2015 est.)

Legend:
- HOUSEHOLD BURDEN
- REAL BURDEN 1999=100

Prepared by Montgomery County Department of Finance

COUNTY TAXES AS A SHARE OF PERSONAL INCOME
MONTGOMERY COUNTY

Fiscal Year	Share
2006	4.30%
2007	4.41%
2008	4.24%
2009	4.43%
2010	4.07%
2011	3.99%
2012	4.20%
2013	4.29%
2014 est.	4.20%
2015 est.	4.00%

Fiscal Year
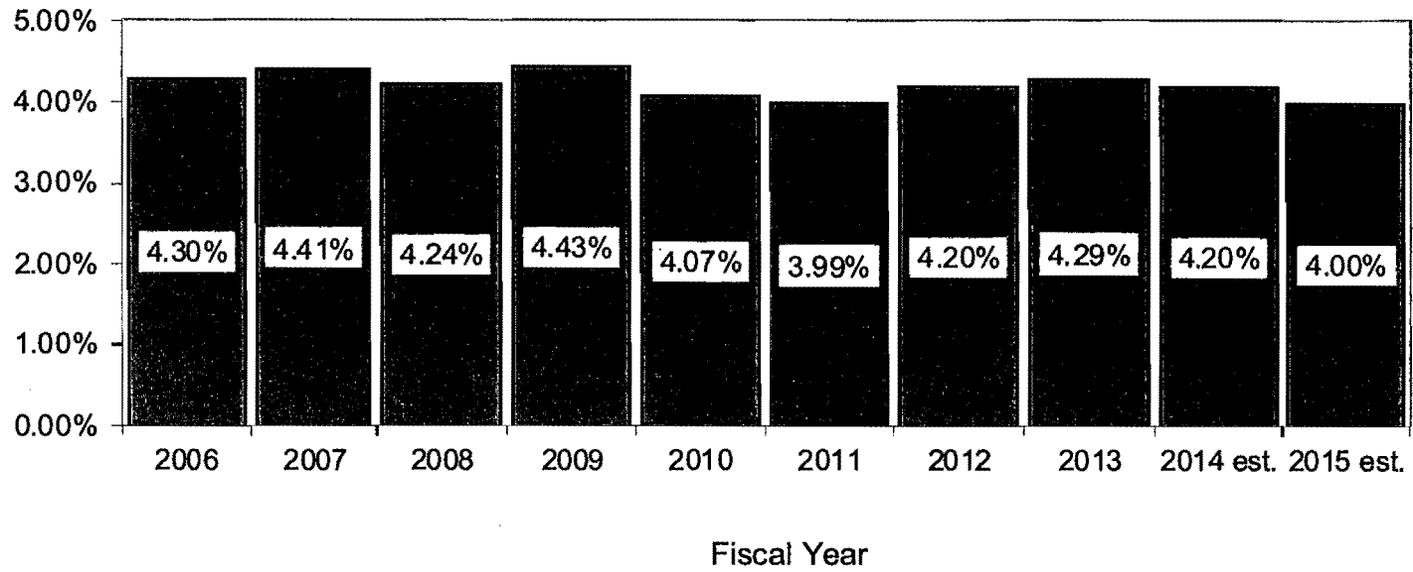
Prepared by Montgomery County Department of Finance

	Group 1	Group 2	Group 3	TOTAL
TAXABLE VALUE (LY2014)(a)				
Residential	$46,162,524,645	$44,002,098,316	$37,290,953,955	$127,455,576,916
Commercial	$3,827,848,839	$7,405,369,426	$9,421,390,024	$20,654,608,289
Industrial	$193,019,304	$1,501,353,669	$4,351,333,869	$6,045,706,842
Apartments	$2,341,496,885	$2,501,092,972	$2,944,170,800	$7,786,760,657
Other	$485,874,740	$301,513,745	$319,834,179	$1,107,222,664
TOTAL TAXABLE	$53,010,764,413	$55,711,428,128	$54,327,682,827	$163,049,875,368
Residential	$46,162,524,645	$44,002,098,316	$37,290,953,955	$127,455,576,916
Commercial et. al	$6,848,239,768	$11,709,329,812	$17,036,728,872	$35,594,298,452
TOTAL TAXABLE	$53,010,764,413	$55,711,428,128	$54,327,682,827	$163,049,875,368

	CE Recommended Budget
Residential	$127,455,576,916
Tax Rate	$0.996
Revenues (pre-IOTC)	$1,269,457,546
IOTC	($168,301,923)
Subtotal	$1,101,155,623
Commercial	$35,594,298,452
Tax Rate	$0.996
Subtotal	$354,519,213
TOTAL (b)	$1,455,674,836
SHARE	
Residential	75.6%
Commercial	24.4%

NOTE: (a) Taxable assessments at the start of FY15 (LY14) from TXP340-1 Report dated February 10, 2014
Assessments do not contain new construction added during FY15 (LY14)

(b) Total revenues do not include revenues from new construction, revenues from personal property, penalties and interest, prior year adjustments, and other miscellaneous credits

Testimony on the resolution to increase the FY15 real property tax rate for the General Fund above the Constant Yield Tax Rate

Presented at the Montgomery County, Maryland County Council public hearing on April 22, 2014

Louis Wilen
17101 Macduff Avenue
Olney, MD 20832-2960

Proposed income tax offset credit for FY15 property tax bills:

$692

Number of Montgomery County properties that will no longer receive the $692 offset credit starting in FY15 because the owners did not claim "principal residence" status by the December 31, 2013 deadline:

93,230

The above number was obtained from Mr. Robert Young, Director of the Maryland State Department of Assessments and Taxation.

(Pursuant to the Homestead Verification Act passed by the Maryland General Assembly in 2007 and amended in 2013, homeowners had 6 years to submit the simple, one page principal residence verification form online or by mail. Homeowners received 6 reminders in the mail and dozens of reminders from TV, radio, and print media.)

Amount of additional revenue that Montgomery County will receive due to removal of "principal residence" status from properties that have been determined by the State Department of Assessments and Taxation (SDAT) be ineligible ($692 x 93,230):

$64,515,160

(In addition, several million dollars of previously improperly awarded homestead credits will also not be issued starting in FY15 because of the removal of "principal residence" status from ineligible properties.)

Please be sure that the $64,515,160 is taken into account when considering whether to set the property tax rate above the constant yield rate.

Review of Issues related to Louis Wilen Testimony on Constant Yield Tax Rate 4/22/14

Number of Residential Properties losing the owner occupied designation:

- The number that Mr. Wilen used (93,230 accounts) came from SDAT, and it was developed at the end of last year for public discussion purposes.

- This number of accounts that will lose eligibility for the Homestead Tax Credit for failure to file the application with the State Department of Assessments and Taxation (SDAT), for the July 2014, tax bill could be reduced to 75,869 when SDAT addresses the approximately 20,000 pending applications in Montgomery County where SDAT had to send out subsequent correspondence to the property owner because of a discrepancy in the audit (e.g. same Social Security number shows up on two properties).

- According to SDAT, all of these pending accounts will be resolved before the SDAT cut off for tax billing purposes for the County for Levy Year 14 (FY15) in July 2014.

- The State uses different codes in the Assessment database for eligibility for the Homestead Tax Credit than it does for eligibility for the Income Tax Offset Credit (ITOC).[1]

Legal and programmatic considerations for changing the owner occupied designation

- The Office of the County Attorney believes that neither Section 52-11B of the County Code authorizing the ITOC resolution nor Section 9-105 of the State Tax - Property Article authorizes the County to use ineligibility for the Homestead Tax Credit based on failure to file the application with SDAT, as the basis for denying a homeowner eligibility for the ITOC.

- Even assuming the County Government had the legal authority to unilaterally make a change in the owner occupied designation for a residential property in the SDAT tax records it would require substantial recoding of the County's Tax Assessment system since a different code is used for the Homestead Tax Credit eligibility than for ITOC eligibility. This would delay the issuance of the annual property tax bill from early July into August 2014 or later.

- In addition, the County would expect to receive tens of thousands of challenges to the change in designation from homeowners if their eligibility for the ITOC was removed and potentially tens of thousands of revised bills that would have to be printed and mailed

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[1] There is a very important distinction about the existing "H" and "D" owner occupied codes in the data system and the four new codes (R, U, M, and L) that SDAT developed to remove Homestead Tax Credit eligibility for the July 2014 tax bill. SDAT is not going to use the "H" and "D" codes to remove the credits for the July 2014 tax bill for non-filers. Instead SDAT will use the new codes. Also, the H and D codes will remain to allow semi-annual payment by the property owner because the General Assembly did not include semi-annual payment as one of the lost benefits for failure to submit the Homestead Tax Credit application by the extended December 30, 2013 deadline.

at great expense to the County. This would require a temporary up staffing in the 311 Call Center and the Finance Treasury Division to address these service requests.

- If the County did remove eligibility for the ITOC and lost a subsequent legal challenge to its action, then it would be forced to make refunds of up to $64 million plus interest during FY15 which would deplete reserves and fiscal flexibility in FY15 and possibly requiring offsetting revenue raising measures and/or expenditure reductions in FY15 or subsequent fiscal years.

- The County Government has an existing program in place for tracking and correcting eligibility for owner occupied tax credit eligibility. This tax compliance program, (which requires the County to notify SDAT so they can change the tax records) has already identified several thousand properties that are not eligible for this designation. Our collaborative work with SDAT has resulted in the collection of approximately $2.6 million in additional property tax revenues as a result of these compliance efforts.

Revenue impact of changing the owner occupied designation

- Regardless of whether this change is made or not the County is still constrained by the Charter limit on real property tax revenues. If the owner occupied status is changed for 76,000 or 93,000 residential properties it would not materially affect the calculation of the Charter limit on real property tax revenues since it will still equal FY14 real property revenues times the rate of inflation (not including new construction, etc) .
  - o It would not suddenly create a $64 million windfall in the absence of nine votes to exceed the Charter limit.
  - o It would actually reduce the amount of property tax revenues under the Charter limit because it would require a lower real property rate which would have an impact on the personal property tax rate which is set at 2.5 times the real property rate.

Tax-Supported Property Tax Revenues

	Revenues	Difference	Tax Rate (a)	Difference
CE's Recommended Budget	$1,538,880,000		$0.996	
Option #1 (b)	$1,535,307,000	($3,573,000)	$0.960	($0.036)
Option #2 (c)	$1,536,037,000	($2,843,000)	$0.967	($0.029)

NOTES: (a) Weighted average rate and rates for Option #1 and Option #2 are based on more than a three decimal-point reduction for the General Fund rate.

(b) Assumes 157,777 owner-occupied residences qualify for the $692 ITOC

(c) Assumes 175,028 owner-occupied residences qualify for the $692 ITOC

(d) There are 306,329 residential properties in the County for LY14. Of these, the County estimated that 250,897 (81.9%) would receive the ITOC and 55,432 would not.