



Committee: Directly to Council
Committee Review: N/A
Staff: Craig Howard, Deputy Director
Purpose: Final action – vote expected
Keywords: Budget, Taxes

AGENDA ITEM #5K
April 18, 2023
Action

SUBJECT

Resolution to set a public hearing for the FY24 Constant Yield Tax Rate

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

State law requires the Council to advertise if it plans to impose a real property tax rate that is greater than the Constant Yield Tax Rate (CYTR) each year. The CYTR is the General Fund real property tax rate for the coming fiscal year that would generate the same amount of revenue that was generated during the current fiscal year. The CYTR fluctuates based on the County's assessable base each year; the CYTR decreases when assessments increase and increases when assessments decrease.

SUMMARY OF KEY DISCUSSION POINTS

- The State Department of Assessments and Taxation calculates the CYTR annually for each taxing authority in the State (see ©1-4).
- State law requires a Maryland taxing authority (i.e. the Council) to advertise if it plans to exceed the CYTR for the next fiscal year.
- The notice and public hearing requirements established in State law are very specific. These requirements include word for word language, font size, appearance requirements, and specific timing requirements for the public hearing (see ©6-7).
- The Council's notice to set a rate that exceeds CYTR does not restrict its decision when setting the actual real property tax rate during the budget. The notice provides flexibility because a taxing authority may not set a rate that exceeds the CYTR or the advertised rate unless it follows the State law exactly.
- Attached is a calculation sheet for the County's CYTR in FY24 and previous history of the CYTR. The Executive's recommended budget proposed a rate that was 9.55 cents greater than the CYTR (see ©5).

This report contains:

| | |
|----------------------------------|----|
| Memorandum from the State | ©1 |
| Calculation sheet | ©5 |
| Advertisement | ©6 |
| Proposed resolution to advertise | ©8 |

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Date: February 14, 2023
To: All County Taxing Authorities
From: Michael Higgs, Director
RE: 2023/24 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 section 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 shall be no more than 2.5 times the rate for real property. Failure to comply with the Constant Yield Tax Rate law could have serious consequences for your jurisdiction.

Concept

The Constant Yield Tax Rate is calculated by the Department for each taxing authority in Maryland. 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 maintain its 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 Real 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 advertisement and public hearing for tax rate increases above the constant yield tax rate. 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 word-for-word 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 and may not be modified. 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 required by law. If you have any questions about the acceptability of additional language, contact Zachary Grisard 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 Zachary Grisard 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 7th day and on or before the 21st 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 17th, which is the date required by law for imposition of the property tax. This means that the absolute latest the advertisement can be published is June 10th for a June 17th hearing.

5. Reporting to the Department: The taxing authority must provide a copy of the entire page containing the notice from the published newspaper that carried the notice or evidence that the notice was mailed to each property taxpayer. A copy of just the advertisement itself is 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 17th 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 are announced at the hearing. The property tax rate applicable to personal property shall be no more than 2.5 times the rate for real property. 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. However, these estimates may be affected by subsequent reductions in assessments by the local Property Tax Assessment Appeal Board or the Maryland Tax Court for certain properties. 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:
www.dat.maryland.gov.

Questions or problems:

Maryland State Department of Assessments and Taxation
Attn: Zachary Grisard, Area Supervisor
300 West Preston Street, Room 605
Baltimore, Maryland 21201
Phone: (410) 767-6259
E-mail: zachary.grisard@maryland.gov

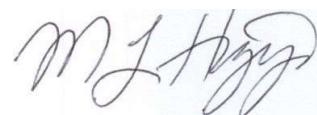
2023 Constant Yield Tax Rate Certification

Taxing authority: **Montgomery
County**

| | | | | |
|----|------------|---------------------------------------|----|----------------------|
| 1 | 1-Jul-2022 | Gross assessable real property base | \$ | 210,732,289,943 |
| 2 | 1-Jul-2022 | Homestead Tax Credit | - | <u>92,602,858</u> |
| 3 | 1-Jul-2022 | Net assessable real property base | | 210,639,687,085 |
| 4 | 1-Jul-2022 | Actual local tax rate (per \$100) | x | <u>0.6940</u> |
| 5 | 1-Jul-2022 | Potential revenue | \$ | 1,461,839,428 |
| 6 | 1-Jul-2023 | Estimated assessable base | \$ | 220,822,880,088 |
| 7 | 1-Jan-2023 | Half year new construction | - | 845,223,057 |
| 8 | 1-Jul-2023 | Estimated full year new construction* | - | 725,000,000 |
| 9 | 1-Jul-2023 | Estimated abatements and deletions** | - | <u>2,513,132,504</u> |
| 10 | 1-Jul-2023 | Net assessable real property base | \$ | 216,739,524,527 |

| | | | | |
|----|------------|-----------------------------------|----|-----------------|
| 11 | 1-Jul-2022 | Potential revenue | \$ | 1,461,839,428 |
| 12 | 1-Jul-2023 | Net assessable real property base | ÷ | 216,739,524,527 |
| 13 | 1-Jul-2023 | Constant yield tax rate | \$ | 0.6745 |

Certified by



Director

* Includes one-quarter year new construction where applicable.

**Actual + estimated as of July 1, 2023, including Homestead Tax Credit.

Form CYTR #1

Maryland Department of Assessments and Taxation February 2023
Constant Yield Tax Rate Certification for Montgomery County For 2023/FY24

| | | |
|----|---|-----------------|
| 3 | 01-Jul-2022 Net assessable real property base | 210,639,687,085 |
| 4 | 01-Jul-2022 Actual local tax rate | 0.6940 |
| 5 | 01-Jul-2022 Potential revenue | 1,461,839,428 |
| 6 | 01-Jul-2023 Estimated assessable real property base | 220,822,880,088 |
| 7 | 01-Jan-2023 Half year new construction | (845,223,057) |
| 8 | 01-Jul-2023 Estimated full year new construction* | (725,000,000) |
| 9 | 01-Jul-2023 Estimated abatements and deletions** | (2,513,132,504) |
| 10 | 01-Jul-2023 Net assessable real property base | 216,739,524,527 |
| 11 | 01-Jul-2022 Potential revenue (from #5 above) | 1,461,839,428 |
| 12 | 01-Jul-2023 Net assessable real property base (from #10 above) | 216,739,524,527 |
| 13 | 01-Jul-2023 Constant yield tax rate (rounded to 4 decimal places) | 0.6745 |
| | CYTR is this much above (below) the current tax rate | (0.0195) |

* Includes one-quarter year new construction where applicable.

**Actual + estimated as of July 1, 2021, including Homestead Tax Credit.

| | | |
|---------|--|-----------------|
| Line 3 | Assessable base, current year | 210,639,687,085 |
| Line 4 | Tax rate, current year | 0.6940 |
| Line 10 | Assessable base, next year | 216,739,524,527 |
| Line 11 | CYTR | 0.6745 |
| NLN1 | CE rate | 0.7700 |
| NLN2 | Proposed rate to advertise | 0.7700 |
| NLN3 | Proposed rate exceeds CYTR by | 0.0955 |
| NLN4 | CE rate exceeds (is less than) CYTR by | 0.0955 |

| | | |
|----------|-------------------------------------|-----------------|
| Circle 1 | % change in assessable base | 2.9% |
| Circle 2 | Assessable base, current year | 210,639,687,085 |
| Circle 3 | Assessable base, next year | 216,739,524,527 |
| Circle 4 | Tax rate, current year | 0.6940 |
| Circle 5 | % change in tax at current rate | 2.9% |
| Circle 6 | \$ change in tax at current rate | 42,332,872 |
| Circle 7 | % change from CYTR to proposed rate | 14.2% |

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 | 206,986,246 |
| | Revenue, CE rate | 1,668,894,339 |
| | Revenue, proposed rate | 1,668,894,339 |
| | Difference | 0 |

From: Office of the Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

NOTE: This ad must not be placed with Legal Notices or Classified Ads. PLEASE INSERT THE FOLLOWING ADVERTISEMENT IN THE FOLLOWING NEWSPAPER(S) ON THE DATE INDICATED:

Washington Post – Thursday, April 20, 2023

COUNTY NEWSPAPER NOTICE REQUIREMENTS

Headline must be all capital letters and bold type.
Remainder must be both upper and lower case characters.
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.

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, 2023, the estimated real property assessable base will increase by 2.9%, from \$210,639,687,085 to \$216,739,524,527.
2. If Montgomery County maintains the current tax rate of \$0.6940 per \$100 of assessment, real property tax revenues will increase by 2.9% resulting in \$42,332,872 of new real property tax revenues.
3. In order to fully offset the effect of increasing assessments, the real property tax rate should be decreased to \$0.6745, 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 \$0.7700 per \$100 of assessment. This tax rate is 14.2% higher than the constant yield tax rate and will generate \$206,986,246 in additional property tax revenues.

A public hearing on the proposed real property tax rate increase will be held at 1:30 PM on May 2, 2023 at the Council Office Building. The hearing is open to the public, and public testimony is encouraged. Persons with questions regarding this hearing may call 240-777-7803 for further information.

Residents have the opportunity to testify remotely for public hearings or provide in-person testimony at the Council Office Building in Rockville. Residents can register to speak at a public

hearing, provide written testimony, prerecorded audio or video testimony via www.montgomerycountymd.gov/COUNCIL/testify.html; or sent by mail to County Council, 100 Maryland Ave., Rockville, MD 20850; or residents may sign up to testify remotely by phone (call 240-777-7803 for information). To express an opinion, call 240-777-7900.

XX

Resolution No: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Setting a public hearing concerning the intention to consider increasing the FY24 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 FY24 of \$0.6745 per \$100 of assessed valuation.
2. On March 15, 2023, the County Executive proposed a FY24 tax rate for the General Fund of \$0.7700 per \$100 of assessed valuation. On April 18, 2023, the Council agreed to advertise a rate of \$0.7700 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

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

On May 2, 2023 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 \$0.7700. This rate exceeds the constant yield tax rate of \$0.6745 by 9.55¢.

This is a correct copy of Council action.

Judy Rupp. Clerk of the Council