


MEMORANDUM

April 19, 2019

TO: County Council

FROM: Jacob Sesker, Senior Legislative Analyst 

SUBJECT: Intent to consider increasing FY20 General Fund tax rate above the Constant Yield Tax Rate (CYTR)

PURPOSE: Public Hearing – No Council votes required

Background

Under Maryland law (Tax-Property Article §2-205 and §6-308), **the Constant Yield Tax Rate (CYTR) is the real property tax rate for the coming year that will generate the same amount of revenue that was generated during the current year.**¹ The CYTR decreases as assessments increase (as is the case now), and increases as assessments decrease (as was the case during and following the Great Recession). The State Department of Assessments and Taxation calculates the rate for each taxing authority in the State. See Calculation at ©6.

If a taxing authority plans to impose a real property tax rate that is higher than the CYTR, the taxing authority must first advertise the tax increase and subsequently hold a public hearing. No notice or hearing is required if the taxing authority plans to set a real property tax rate that is equal to or less than the CYTR.

The notice and the hearing requirements established in the state law are very specific. The language to appear in the advertisement is specified word for word in the statute. The advertisement must comply with specific size and appearance requirements. The hearing must be held on or after the 7th day after the advertisement is published, and must be held on or before the 21st day after the notice is published. Under no circumstances may the hearing be held after June 17 (therefore, the latest date on which the advertisement can be published is June 10).

Discussion

¹ The CYTR law applies only to the real property tax rate for the General Fund. In Montgomery County, this tax is just one of 55 property tax rates set by the Council; however, the tax accounts for two-thirds of total property taxes (real and personal) in all funds.

The Council may, in compliance with the law, advertise any rate that exceeds the CYTR. What the Council may not do is set a rate that exceeds the CYTR, or the advertised rate, without first holding a public hearing. Advertising a high rate in April gives the Council flexibility when finalizing the budget in May (i.e., flexibility in setting tax rates and the amount of credits, setting the overall level of expenditures, or shifting expenditures from other funds to the General Fund). See History at ©2. That flexibility would come in handy if the Council is considering changes to the amount of the property tax credit.

Council staff recommends advertising a rate that is 3.56¢ above the Constant Yield Tax Rate.

	Rate (per \$100)	Difference from FY20 CYTR	Difference from FY20 CE recommended
FY19 Actual	0.7414	0.0068	0.0212
FY20 CYTR, calculated by the State	0.7346	0.0000	0.0144
FY20 Executive's recommendation	0.7202	(0.0144)	0.0000
FY20 Council staff's recommended rate to advertise	0.7702	0.0356	0.0500

Again, the actual tax rate levied to fund the next fiscal year's budget can be lower than the rate advertised in April, or higher if—in compliance with the CYTR law—the higher rate is re-advertised and an additional public hearing is held.

Recommendation

- **Staff recommends that the Council approve the resolution, which sets a public hearing (on April 23, 2019) concerning the Council's intention to impose a General Fund real property tax rate that exceeds the CYTR.** See Resolution at ©8.
- **As indicated above, Staff recommends advertising a rate of \$0.7702 per \$100, which is 3.56¢ above the CYTR.** See Advertisement at ©7.

Attachments:

Worksheet	© 1
History	© 2
Memorandum from State	© 3
Calculation	© 6
Advertisement	© 7
Resolution	© 8

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Maryland Department of Assessments and Taxation March, 2018
Constant Yield Tax Rate Certification for Montgomery County For 2018/FY19

3	01-Jul-2018 Net assessable real property base	190,383,346,877
4	01-Jul-2018 Actual local tax rate	0.7414
5	01-Jul-2018 Potential revenue	1,411,502,134
6	01-Jul-2019 Estimated assessable real property base	195,456,660,232
7	01-Jan-2019 Half year new construction	(461,252,360)
8	01-Jul-2019 Estimated full year new construction*	(1,061,600,000)
9	01-Jul-2019 Estimated abatements and deletions**	(1,800,996,782)
10	01-Jul-2019 Net assessable real property base	192,132,811,090
11	01-Jul-2018 Potential revenue (from #5 above)	1,411,502,134
12	01-Jul-2019 Net assessable real property base (from #10 above)	192,132,811,090
13	01-Jul-2019 Constant yield tax rate (rounded to 4 decimal places)	0.7346
	CYTR is this much above (below) the current tax rate	(0.0068)

* Includes one-quarter year new construction where applicable.

**Actual + estimated as of July 1, 2019, including Homestead Tax Credit.

Line 3	Assessable base, current year	190,383,346,877
Line 4	Tax rate, current year	0.7414
Line 10	Assessable base, next year	192,132,811,090
Line 11	CYTR	0.7346
NLN1	CE rate	0.7202
NLN2	Proposed rate to advertise	0.7702
NLN3	Proposed rate exceeds CYTR by	0.0356
NLN4	CE rate exceeds (is less than) CYTR by	(0.0144)

Circle 1	% change in assessable base	0.9%
Circle 2	Assessable base, current year	190,383,346,877
Circle 3	Assessable base, next year	192,132,811,090
Circle 4	Tax rate, current year	0.7414
Circle 5	% change in tax at current rate	0.9%
Circle 6	\$ change in tax at current rate	12,970,528
Circle 7	% change from CYTR to proposed rate	4.8%

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	68,399,281
	Revenue, CE rate	1,383,740,505
	Revenue, proposed rate	1,479,806,911
	Difference	96,066,406

FY13-FY20 Constant Yield Tax Rate, CE Rec. Rates, Council Advertised Rates, and Council Approved Rates

A	B	C	D	E	F
	Council Approved Previous Year General Fund Tax Rate	State Constant Yield Tax Rate (CYTR)	County Executive Recommended Rate	Council Advertised Rate (CYTR)	Council Approved General Fund Tax Rate
	May	February	March	April	May
1 FY13	0.713	0.744	0.726	0.751	0.724
2 FY14	0.724	0.726	0.759	0.774	0.759
3 FY15	0.7590	0.7475	0.7360	0.7775	0.7320
4 FY16	0.7320	0.7098	0.7230	0.7630	0.7230
5 FY17	0.7230	0.7004	0.7754	0.7754	0.7734
6 FY18	0.7734	0.7541	0.7488	0.7734	0.7484
7 FY19	0.7484	0.7404	0.7386	0.7704	0.7414
8 FY20	0.7414	0.7346	0.7202	0.7702	

LARRY HOGAN
GOVERNOR

BOYD RUTHERFORD
LT. GOVERNOR



MICHAEL HIGGS
DIRECTOR

DENISE HERNDON
DEPUTY DIRECTOR

Date: February 14, 2019
To: All County Taxing Authorities
From: Michael Higgs, Director
RE: 2019/20 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:

Real Property Division
300 W. Preston St., Room 605, Baltimore, MD 21201
www.dat.maryland.gov
410-767-6259 (phone) 1-800-552-7724 (MD Relay)
410-333-7275 (fax) 1-888-246-5941 (toll free)

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GOVERNOR

BOYD RUTHERFORD
LT. GOVERNOR



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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

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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 the *entire actual page* of the physically published edition of the newspaper that carried the notice or evidence that the notice was mailed to each property taxpayer. Photocopies 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 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, Special Assistant
300 West Preston Street, Room 605
Baltimore, Maryland 21201
Phone: (410) 767-6259
E-mail: zachary.grisard@maryland.gov

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State of Maryland

Department of Assessments and Taxation

February 14, 2019

2019 Constant Yield Tax Rate Certification

Taxing authority: **Montgomery
County
Revised**

1	1-Jul-2018	Gross assessable real property base	\$	190,460,651,321
2	1-Jul-2018	Homestead Tax Credit	-	<u>77,304,444</u>
3	1-Jul-2018	Net assessable real property base		190,383,346,877
4	1-Jul-2018	Actual local tax rate (per \$100)	x	<u>0.7414</u>
5	1-Jul-2018	Potential revenue	\$	1,411,502,134
6	1-Jul-2019	Estimated assessable base	\$	195,456,660,232
7	1-Jan-2019	Half year new construction	-	461,252,360
8	1-Jul-2019	Estimated full year new construction*	-	1,061,600,000
9	1-Jul-2019	Estimated abatements and deletions**	-	<u><u>1,800,996,782</u></u>
10	1-Jul-2019	Net assessable real property base	\$	192,132,811,090

11	1-Jul-2018	Potential revenue	\$	1,411,502,134
12	1-Jul-2019	Net assessable real property base	÷	192,132,811,090
13	1-Jul-2019	Constant yield tax rate	\$	<u><u>0.7346</u></u>

Certified by



Director

* Includes one-quarter year new construction where applicable.

**Actual + estimated as of July 1, 2019, including Homestead Tax Credit.
Form CYTR #1

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, 2019, the estimated real property assessable base will increase by 0.9%, from \$190,383,346,877 to \$192,132,811,090.
2. If Montgomery County maintains the current tax rate of \$0.7414 per \$100 of assessment, real property tax revenues will increase by 0.9% resulting in \$12,970,528 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 \$0.7346, 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 \$0.7702 per \$100 of assessment. This tax rate is 4.8% higher than the constant yield tax rate and will generate \$68,399,281 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 23, 2019 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:

Adopted:

April 2, 2019

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Setting a public hearing concerning the intention to consider increasing the FY20 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 FY20 of \$0.7346 per \$100 of assessed valuation.
2. On March 15, 2019, the County Executive proposed an FY20 tax rate for the General Fund of \$0.7202 per \$100 of assessed valuation. On April 2, 2019, the Council agreed to advertise a rate of \$0.7702 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 April 23, 2019 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 \$0.7702. This rate exceeds the constant yield tax rate of \$0.7346 by 3.56¢.

This is a correct copy of Council action.

Megan Davey Limarzi, Esq.
Clerk of the Council