Municipal Tax Duplication and Revenue Sharing in Montgomery County, MD

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This OLO report responds to the County Council's request to better understand municipal tax duplication programs and provide ideas to improve the County's program. It reviews research from the Institute for Government Services (IGS) and the Maryland Municipal League (MML) and other counties' programs.

Purpose of Municipal Tax Duplication Programs

Under Maryland's governance structure, counties and municipalities have concurrent power to levy real property taxes and have home rule authority to independently decide the services they deliver. These conditions can result in a municipal taxpayer being taxed twice for services he or she receives only once. As MML explains:

> **Double taxation** exists (1) when a county and a municipality within that county provide similar services financed with property tax revenues, and (2) when the county does not provide those services within the municipal corporate limits. In such cases, municipal property owners pay taxes to both the municipal and county governments for a service (or services) they receive only from the municipality.

Municipal tax duplication programs exist to resolve these double taxation inequities. Counties identify services that give rise to double taxation, develop methods and formulas to determine the value of those services (often referred to as a "tax setoff"), and then decide whether to resolve the double taxation through a rebate payment to the municipal government or through a tax differential (i.e., setting a lower county property tax rate for municipal taxpayers).

State and County Municipal Tax Duplication Law

State law establishes a framework for local tax duplication programs, and specifically requires Montgomery County (and six other Maryland counties) to establish reimbursement programs. The State law leaves decisions about formulas and payment methods to local officials – requiring local governing bodies to meet and confer about county property tax rates in municipalities - but mandates that a county's determination of tax setoff value consider the extent of funding from property tax revenues.

County law establishes a municipal reimbursement program. It specifies qualifying conditions to determine services eligible for reimbursement; assigns responsibility for determining tax setoff values to the county executive; specifies that tax setoff values must approximate the amount of municipal tax revenues and be limited to the amount the county would expend for the eligible services; provides for a rebate payment (but not a tax differential); and limits funding to the council appropriation.

Service Group Definitions

The administration of a municipal property tax duplication program recognizes four distinct service groups:

- **County-only services** are mandatory services that municipalities cannot provide by law such as K-12 education, community colleges, health services, and corrections.
- **Shared Services** are discretionary services that both counties and municipalities can provide and thus may create tax duplication issues such as water and sewer, police and fire protection, parks and recreation services, street and highway maintenance, planning and zoning, and solid waste removal.
- **Reimbursable Services** are shared services that meet the conditions for tax duplication and are eligible for reimbursement from the County.
- **Non-reimbursable Services** are services uniquely provided by a county or municipality or internal services such as human resources or finance that exist only because the government itself exists.

County General Fund and Corresponding Municipal Service Expenditures

In 2011, County General Fund expenditures for were $1.8 billion for "county-only" services and $585.7 million for "shared services". The County's 22 municipalities spent $105.5 million on shared services in 2011, including $11.3 million on reimbursable services and $94.1 million spent on non-reimbursable services.

County General Fund and Select Municipal Expenditures by Service Type, 2011

Service Type	County General Fund Expenditures	Municipal Operation Fund Expenditures[1]	Total Expenditures
County-Only Services	$1.8 billion		$1.8 billion
Board of Education	$1.422.6 billion		$1.422.6 billion
Health and Social Services	$155.7 million	--	$155.7 million
Community College	$102.5 million		$102.5 million
Corrections	$62.9 million		$62.9 million
All Other State Mandates	$57.6 million		$57.6 million
Shared Services	$585.7 million	$105.5 million	$691.2 million
Reimbursable	$198.4 million	$11.3 million	$210.0 million
Non-Reimbursable	$387.3 million	$94.1 million	$481.4 million
Total	**$2.4 billion**	**$105.5 million**	**$2.5 billion**

Source: Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

Municipal Tax Duplication Payments and the State's Shared Revenue Structure

In 2011, the $7.8 million tax duplication payment that the County made to cover all municipal reimbursable services (including park maintenance services) totaled $11.5 million, leaving a shortfall of $3.8 million. However, besides the tax duplication payment, the State's shared revenue structure re-directs 17% of county income taxes paid by municipal taxpayers to their municipal governments to fund municipal services. In 2011, municipal governments received $30.7 million in shared county income tax revenue, and together the tax duplication payment and shared county income revenue totaled $38.5 million. This combined county revenue accounted for 36% of the $105.5 million in municipal shared services' spending.

In 1970, the Committee on Taxation and Fiscal Matters recommended against establishing a statewide municipal tax duplication law, stating in part, that "the existing requirements for the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided."

In its review of this issue, IGS stated "If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded." (emphasis added)

OLO's analysis of municipal full reimbursable service costs and their shared county income tax revenues in FY13 shows that under this approach only two County municipalities would qualify for a rebate payment.

[1] Since these are only expenditures that parallel County General Fund services, they exclude parks and recreation.

Issues with the County's Current Municipal Tax Duplication Program

Current List of Reimbursable Services and Municipal Providers

Reimbursable Service	Current Municipal Providers	% of County Served by Municipal Providers
Animal Control	Gaithersburg and Rockville	12.4%
Board of Appeals	Town of Chevy Chase	0.3%
Crossing Guards	Takoma Park	1.7%
Hearing Examiner	Town of Chevy Chase	0.3%
Human Rights	Rockville	6.3%
Park Maintenance	Chevy Chase Section 3, Town of Chevy Chase, Friendship Heights, Kensington, Takoma Park	2.8%
Police	Takoma Park	1.7%
Road Maintenance	All Except Barnesville	13.4%
Senior Groceries	Friendship Heights	0.5%
Senior Transportation	Gaithersburg, Friendship Heights, Rockville	12.9%

Current County law creates confusion about service reimbursements and the County's overall MTD policy. Inconsistencies among the law, task force reports and Council resolutions create ambiguity about the intent of the County's program. Two examples of issues with the current County law are: 1) it allows the County to not reimburse for a service if it determines it would not provide the service in the future; and 2) it fails to recognize service rates, effectively precluding municipal service partnerships.

Several disconnects exist between the County's current list of reimbursable services, its service funding structures, its rebate payments and its municipal provider services. For example, 1) the County General Fund reimburses for park maintenance services that are funded through the Metropolitan District; 2) land use hearings are reimbursed for one municipality but not others; 3) Takoma Park receives reimbursements for library and police services (authorized in the County Code) separate from the municipal tax duplication program; and 4) police service rebates that were formerly included are currently excluded.

The current formulas are outdated, lack uniformity and their results are ignored. Both the formulas used to administer the program and the practice of not fully funding the formula results have been a source of ongoing, persistent problems since the seventies. In FY13, County funding was $3.8 million below the formula amount. The current formulas reflect an ad hoc assortment of agreements developed over time. This approach stands in contrast to IGS' recommended methodology and other county programs where a consistent set of factors is uniformly applied to determine municipal tax differentials or rebate payments.

Municipal stakeholders perceive that the program does not adequately address persistent tax differential issues and that it has an inherently political element. Municipal stakeholders suggested that the cost formulas are not realistic and held widely shared concerns that no consistent methodology exists for revising or updating the formulas. Stakeholders suggested that the County allow reimbursements for non-recurring costs, establish an "audit process" for formulas, and release relevant information ahead of the County's budget release so municipalities would have an opportunity to locate and correct potential errors.

As the County's local governing body, decisions about the design of a Municipal Tax Duplication program, including methodologies to determine reimbursable services, formulas to determine tax set-off values, and responsibilities for program administration, rest with the Council. OLO's recommendations offer the Council an opportunity to create a more fiscally sustainable program while establishing a structure that strengthens County/municipal partnerships, improves transparency and addresses equity for nonmunicipal taxpayers.

Recommendation #1: Implement nine revisions to strengthen the fairness, uniformity and sustainability of the County's municipal tax duplication program.

Revision A: Revise the municipal tax duplication payment formula to reimburse on a property tax cost basis to better align the County's program with State law and the State's shared revenue structure.

Revision B: Give municipalities and their taxpayers the option to make a one-time election for either a County property tax rate differential or a property tax share municipal rebate payment.

Revision C: Fund park maintenance service rebates with revenue from the Metropolitan District, or redraw the Metropolitan District boundaries to eliminate park maintenance reimbursement payments from the MTD program.

Revision D: Transfer the Takoma Park Library rebate, currently authorized as a separate payment in County law, into the municipal tax duplication program.

Revision E: Include land use administrative hearings as reimbursable services under the municipal tax duplication program for all municipalities in the County that provide these services.

Revision F: Replace the current cost of service formulas with a methodology that uses available activity and/or relevant program data to develop unit cost factors for crossing guards, human relations and library services.

Revision G: Revise the methodology for the transportation cost of service calculation to determine the County's net costs per mile using data from the Local Highway Finance Report filed annually with the State.

Revision H: Provide a single reimbursement payment for Takoma Park police services through the municipal tax duplication program by eliminating the stand-alone payment authorized in the County Code. Revise the current repayment methodology to utilize a unit cost formula.

Revision I: Incorporate the use of service rate factors as part of the County's municipal tax duplication program, and re-institute reimbursement for police patrol services in Chevy Chase Village, Gaithersburg and Rockville under the partial service rate model.

Recommendation #2: Establish a Municipal Grant Program for non-recurring expenses and other initiatives. Structure the program to cap annual funding at an amount equal to the annual appropriation for the MTD program and require matching contributions.

A grant program could help fund municipalities' non-recurring expenses, provide seed money for shared County/municipal service initiatives and fund payments to help low wealth municipalities cover their reimbursable service costs. Grants to address funding shortfalls between a municipality's full cost of reimbursable services and its shared county income tax revenues could be a first claim on available funds. To maintain equity and protect nonmunicipal taxpayer interests, annual funding should be capped and the program should require a matching municipal contribution.

I. Authority, Scope, and Organization

A. Authority

Council Resolution 17-517, *FY 2013 Work Program for Office of Legislative Oversight*, adopted July 31, 2012.

B. Scope and Purpose

Under State and County law, the Council must fund annual municipal reimbursement payments to address duplicative tax payments made by municipal residents. Under the current County methodology, these payments are based on the County's full tax-supported costs; under State law, payments are based on costs attributable to property tax revenues only. Statewide, eighteen counties administer a program that provides a municipal reimbursement, a tax differential or both. Montgomery County is one of seven counties that has a mandatory program.

In FY08, shortly after a newly formed Task Force was charged with addressing municipal revenue sharing issues, including formulas for the County's Municipal Revenue Program, the Council froze the program's payments. The payments stayed frozen for two more years before they were reduced in FY11 and FY12. The Council partially restored the payments in FY13.[1] In FY11 and FY12 along with the lower reimbursement payments, the Council also made cuts to other County/municipal service contracts.[2]

In 2012, the Council's Government Operations Committee held two worksessions to discuss The Final Report of the Municipal Revenue Sharing Task Force, released in June 2012. During these discussions, Committee members raised several questions about the current program.

The Council requested this OLO study to improve its understanding of municipal reimbursement programs and learn about other jurisdictions' programs before it considers amendments to the County's Municipal Revenue Sharing law. The Council is particularly interested in whether other counties' reimbursement payments exceed State law requirements or whether strategies exist to limit subsidies between municipal and non-municipal taxpayers.

C. Methodology

OLO Senior Legislative Analyst Sue Richards conducted this study with assistance from Senior Legislative Analyst Craig Howard, Research Associate Carl Scruggs and Administrative Specialist Kelli Robinson.

To prepare this report, OLO convened a focus group and conducted interviews with municipal representatives; compiled and reviewed County documents to understand the legislative history and administration of Montgomery County's law and program; reviewed policy, research and technical reports from the Institute for Government Services, the Maryland Municipal League, and the State Department of Legislative Services; and interviewed staff and reviewed program documents from other jurisdictions.

OLO used data from the Local Government Finances Handbook and the Tax Set-off Report published by the Maryland Department of Legislative Services and data from Montgomery County's Uniform Financial

[1] In FY08, FY09 and FY10, County payments were frozen at the FY07 amount; in FY11 and FY12 they were 85% of the FY07 amount due to fiscal constraints; in FY13, the Council added a one-time 10% increase.

[2] The City of Gaithersburg Senior Center and the New Hampshire Avenue Recreation Center are examples of County cuts to other service contracts. See pages 41 and 42 of *The Final Report of the Municipal Revenue Sharing Task Force Report* (here) for details.

Report and the Office of Management and Budget to develop estimates of municipal expenditures and County revenues and expenditures for county-only services and shared services. OLO used a methodology from the Institute for Government Services (IGS) to develop estimates of tax differentials; a methodology from Frederick County to develop estimates for full tax-supported costs based on net per capita program costs; and a methodology from IGS and Montgomery County to estimate tax rebate amounts.

D. Organization of Report

Chapter II, Understanding Municipal Tax Duplication Programs, explains the purpose of municipal tax duplication (MTD) programs, introduces key concepts and terminology and introduces the methods, approaches and formulas these programs use to determine service eligibility and reimbursement amounts.

Chapter III, A Statewide Perspective on Municipal Tax Duplication Programs, provides a statewide overview of MTD programs.

Chapter IV, Montgomery County's Municipal Tax Duplication Program's Methods and Formulas, reviews the County's methods for determining eligible services, cost of services, and payment amounts.

Chapter V, The Context for the County's Municipal Tax Duplication Program, provides program and per capita expenditures for county-only services and shared services. This chapter also provides estimates of the fiscal effects of the County's MTD rebates and the state mandate for sharing county income tax with municipalities.

Chapter VI, Municipal Stakeholder Observations, presents observations from municipal stakeholders about the County's current program and suggestions for improvement.

Chapter VII, Municipal Tax Duplication Programs in Other Counties, examines the structure of municipal tax duplication programs in Anne Arundel, Frederick, and Prince Georges' counties.

Chapters VIII and IX, Findings and Recommendations, present OLO's findings and recommendations.

Chapter X, Agency Comments, provides comments on the final draft report from the County's Chief Administrative Officer.

E. Terms and Definitions

This study of municipal tax duplication is a complex subject that uses several terms that have specific meanings. A list of terms and definitions is found in Appendix A.

F. Acknowledgements

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II. Understanding Municipal Tax Duplication Programs

Municipal Tax Duplication (MTD) programs address authority, service, and funding issues that are unique to Maryland; specifically, double taxation issues that arise when counties and municipalities deliver similar services. The Institute for Governmental Services at the University of Maryland (IGS) and the Maryland Municipal League (MML) are two organizations responsible for the design and development of MTD programs. This chapter uses key concepts from documents developed by these organizations and a report from the Maryland General Assembly to describe MTD programs, explain how they relate to state shared revenues, and introduce two MTD reimbursement formulas.[1]

A. What is Tax Duplication?

The Maryland Constitution and Code give municipalities and counties "concurrent power … to levy taxes against real property" as well as home rule authority to decide the services they want to deliver.[2] Under this arrangement, "double taxation" can occur. IGS states that "double taxation" can result: "when two different taxing authorities, a county and a municipality located within the county, levy taxes on the same property to support similar government services."[3]

The June 2012 Montgomery County Municipal Revenue Sharing Task Force Final Report describes tax duplication as follows:

> Residents of municipalities pay a property tax to their municipality and also pay the General Fund property tax to the County. Property tax is the only duplicate tax, as it is the only tax that is levied by both the County and by municipalities. Most of the General Fund property tax that municipal residents pay to the County is used to fund services the County provides to all County residents, such as the public schools and the community college, fire and rescue services, health and human services, libraries, and police for most municipalities. A portion of the General Fund property tax that municipal residents pay to the County is used to fund services the County does not provide to the municipal residents because the municipality provides the services. This portion of their property tax payment to the County is a duplicative payment.[4]

B. Legal Framework for Municipal Tax Reimbursement

The legal framework for a municipal tax reimbursement program in Montgomery County is established in both State and County law. Governance structure summaries from the 2012 Task Force Report are excerpted in this section, in addition to other key points about the governance structure.

State Law. The Maryland Code establishes a structure to address municipal tax duplication by allowing for a tax differential (i.e., a reduced County property tax rate for municipal residents) or a tax rebate (i.e., a reimbursement payment from the County to the municipality) as detailed below.

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[1] Three primary resource documents are Shandy, S. & Wilson, W. "Double Taxation and Tax Differentials in Maryland." Maryland Government Report: A Policy Research Series from The Institute for Governmental Service 3.1 (Spring 1991); The Maryland Municipal League. "Eliminating Double Taxation: The Tax Set-Off Handbook," February 1984; and Maryland Legislative Council Committee on Taxation and Fiscal Matters. "County Property Tax Rate Differential for Municipal Residents." (Annapolis, MD) 1970.

[2] Shandy and Wilson. "Double Taxation and Tax Differentials in Maryland." p. 2 and 4.

[3] Ibid. p. 2.

[4] Montgomery County, Maryland. "Municipal Revenue Sharing Task Force Final Report." June 2012, p. 18.

State Law on Municipal Tax Reimbursement

The State law governing tax duplication is set out in §6-305 of the Tax-Property Article. That section uses the term "tax setoff" instead of tax duplication. Section 6-305(a)(2) defines "tax setoff" to mean: (1) the difference between the general county property tax rate and the property tax rate that is set for assessments of property in a municipality; or (2) a payment to a municipality to aid the municipal corporation in funding services or programs that are similar to county services or programs. Section 6-305(c) requires a county to provide a tax setoff for services or programs provided by a municipality "instead of similar county services or programs." Section §6-305(d) requires a county to consider the following when determining the amount of a tax setoff: (1) the services and programs that are performed by the municipal corporation instead of similar county services and programs; and (2) the extent that the similar services and programs are funded by property tax revenues.

Municipal Revenue Sharing Task Force Final Report, Montgomery County, Maryland, June 2012, p. 17

§6-305 also establishes a "meet and confer" process for counties and municipalities to determine whether they agree that parallel services exist; and, if so, whether the county believes fair resolution of the double taxation issue warrants a county tax differential or tax rebate. Specifically, the law states:

> The governing body of the county **shall** meet and discuss with the governing body of any municipal corporation in the county the county property tax rate to be set for assessments of property in the municipal corporation as provided in this section. After the meeting if it can be demonstrated that a municipal corporation performs services or programs instead of similar county services or programs, the governing body of the county **shall** grant a tax setoff to the municipal corporation.

For those counties, including Montgomery, that have a state mandate to provide either a differential or a rebate, State law obligates a county to explain how it accounts for the consequences of tax duplication. Depending on the county, this can be either a subsidy created from county tax revenue paid by municipal residents for county services they do not use, or savings a county realizes because the amount it spends for services is less than what it would spend if it had to provide these services to its municipal residents.

County Law. As detailed above, State law provides counties the option of addressing municipal tax duplication with a differential or a rebate, and Montgomery County's law establishes a rebate program as described below.

A key component of the County's reimbursement law, however, is that it does not "restrict reimbursement to the portion of the cost of services that would be paid from the County's General Fund property tax revenues. Rather, it requires the County to reimburse municipalities for the County's net cost of service (i.e., the net cost of services that would be provided by the County if they were not provided by municipalities)."[5]

Tax Differentials versus Tax Rebates. While state law allows counties to choose between a tax differential and a tax rebate to address tax duplication, several perspectives exist about this choice. In a handout for a 1995 Tax Duplication Study Task Force, the Montgomery County Office of Management and Budget stated "Historically, municipal governments have preferred receiving tax duplication reimbursements as they have control over how the funds are spent; contrasted with a small tax rate differential that municipal residents would enjoy. The reimbursement style program provides a concentrated benefit to municipal governments,

[5] "Municipal Revenue Sharing Task Force Final Report." p. 18.

while a tax differential provides a disbursed benefit to municipal taxpayers. If correctly structured, the amount of funds reimbursed or County taxes not collected is equal."[6]

County Law on Municipal Tax Reimbursement

The County's municipal property tax duplication program has been in effect since 1974 and is governed by Chapter 30A of the Montgomery County Code which is entitled "Montgomery County Municipal Revenue Program." Section 30A-2 outlines the types of municipal services that qualify for County reimbursement under the program as follows:

"Municipal public services shall qualify for county reimbursement if the following conditions are met: (1) The municipality provides the service to its residents and taxpayers, (2) the service would be provided by the county if it were not provided by the municipality, (3) the service is not actually provided by the county within the municipality and (4) the comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality."

Section 30A-3 addresses how the reimbursement amount will be calculated as follows:

"Subject to the provisions of section 30A-4, each participating municipality shall be reimbursed by an amount determined by the county executive to approximate the amount of municipal tax revenues required to fund the eligible services. The amount of reimbursement shall be limited to the amount the county executive estimates the county would expend if it were providing the services."

Section 30A-4 makes it clear that the County Council has the final say regarding the amount of any County reimbursement under the program. It specifically provides that "All expenditures by the county under the authority of this chapter shall be subject to the limits of the funds appropriated by the county council."

Municipal Revenue Sharing Task Force Final Report, Montgomery County, Maryland, June 2012, p. 17

The Maryland Municipal Leagues (MML) observes that "the differential assures that citizens will receive the full benefit of the lower rate and puts the tax relief up front on the county tax bill, giving each municipal taxpayer a personal stake in the continuance of the tax differential"[7] whereas a tax rebate "is favored by some municipal officials because it provides more flexibility. Since the municipality receives the benefits of the tax set-off rather than the individual taxpayer, part or all of the rebate may be retained in the budget to improve services and keep the municipal rate down."[8]

C. Service Delivery Definitions and Framework

Since municipal tax duplication programs are intended to address duplicative tax payments for similar services, this section reviews key definitions and the framework for service delivery.

Service Categories. Maryland's local governance structure requires counties to provide a particular set of mandatory services to residents, and grants counties and municipalities discretionary powers to provide other services. This report uses the terms "county-only services" and "shared services" to define these different service responsibilities.

[6] Montgomery County Office of Management and Budget. Packet for Maryland Municipal League. "1995 Tax Duplication Study Task Force" Meeting, April 4, 1995.
[7] MML, The Tax Set-Off Handbook, p. 5
[8] Ibid.

- **County-only services** are unique services provided only by counties as a result of specific mandates and authorities within State law. Municipalities are not authorized to provide County-only services. Examples of County-only services include K-12 education, the election board, the sheriff, corrections, and the state's attorney's office.

- **Shared services** are discretionary services that both counties and municipalities have the authority to provide. Examples of shared services include water and sewer services, street and highway maintenance and construction, police and fire protection, parks and recreation services, planning and zoning, and solid waste removal. If a County and municipality simultaneously fund and deliver one or more of these shared services, and property taxes are the source of funds, the potential for property tax duplication occurs.

Assigned and Unassigned Service Responsibilities. All County taxpayers are responsible for the local funding of state-imposed, county-only services while county and municipal taxpayers are separately responsible for choosing the shared services they want to fund. In each case, counties and municipalities also decide the amount and characteristics of these services. As IGS observes:

> There is no rational guide for determining which services municipalities should perform and which services counties should perform. The delivery of certain services at the county level may be more efficient due to economies of scale and the specialization of skills that a larger organization can realize. Counties also have larger tax bases and thus have greater resources to fund urban services. However, municipal governments may be most directly connected to the people they serve and may be in a position to provide the highest degree of responsiveness and accountability to the public. Therefore, the allocation of service responsibilities among counties and municipalities will likely depend upon such factors as the service demands and preferences of the resident populations, the degree of urbanization of a county, and the resources available from local tax bases.[9]

Absent any overarching guidance, a fluid and dynamic framework for shared services results, especially compared to the more stable framework for county-wide services imposed by the state. Since tax duplication programs exist to address overlaps in shared service delivery, the lack of a coherent shared services framework complicates municipal tax duplication programs.

When both a county and a municipality provide a shared service, different characteristics among the programs can make it difficult to determine how to measure the funding overlap that leads to tax duplication. For example, if a municipality chooses to fund police services that do not align cleanly with County police service delivery, it can be difficult to characterize and/or measure the municipal contribution. On the other hand, shared services where responsibilities are largely geographically determined such as street maintenance are easier to measure.

Finally, because county and municipal spending for shared services is discretionary, a county or municipality's commitment to the array or amount of services it delivers may change from year to year. Changes may come in response to a change in priorities or in response to an outside event that generates fiscal stress. Since local governments exist at "the bottom of the fiscal food chain" the reality is that shared services are those most likely to absorb the impact of economic downturns.

[9] Shandy and Wilson, p. 4.

D. Municipal Tax Duplication Programs in the Context of the State's Shared Revenue Structure

The State's shared revenue structure distributes state authorized taxes, such as county income taxes, admission and amusement taxes and recordation taxes, to counties and municipalities to support the funding of local government services. The existence of a Municipal Tax Duplication program within the context of the State's shared revenue structure raises policy issues that further complicate a complex program.

In 1970, the General Assembly's Committee on Taxation and Fiscal Matters issued a report*, County Property Tax Rate Differential for Municipal Residents* ("The Tax Rate Differential Report"). This report demonstrates that the General Assembly recognized the issues created by imposing a municipal tax duplication program on the state's shared revenue structure. Moreover, it offers guidance from the Committee about these issues, even as the state law subsequently adopted by the General Assembly intentionally gave local officials discretion to work out arrangements that address their local circumstances.

This section summarizes key parts of the Tax Rate Differential Report. It provides useful context for the Council's consideration of the County's program, and its conclusions remain relevant today.

Prior Legislative Studies. The Tax Rate Differential Report summarizes prior General Assembly efforts to address county-municipal fiscal relations from 1946, when the state shared revenue structure was initially established, to 1967 when it was reaffirmed. (See Exhibit 1).

Exhibit 1: Excerpts from the Tax Differential Report About the State's Shared Revenue System

In 1946, *the Maryland Commission on the Distribution of Tax Revenues* "established the state sharing of tax revenues with local governments and the distribution between counties and municipalities that exists today."

In 1960, the *Committee on Taxation and Fiscal Matters* made "an extensive study of State-local fiscal relationships" and concluded that "even with inequities as to means of distribution … the State shared taxes may offer an acceptable means to aid local governments."

In 1961, the *Commission on City-County Fiscal Relationships* (appointed by the General Assembly) concluded that "any adjustment in the sharing of State tax revenues could not be made without a broader review of the fiscal relationships among the State, the counties and the municipalities."[10]

In 1965, the *Commission on State and County Finance* recommended an overhaul of the State tax structure. It called for 1) replacing existing State shared revenues with a new State grant equalized on an effort and ability index; and 2) relating the distribution of the grant between counties and towns to the burden of government conducted by each unit. Subsequently, *a special legislation committee* charged with reviewing this report recommended that: 1) the distribution of the grant be based on the property tax burden; and 2) the amount of property tax used for county roads realized from the assessable base in a municipal corporation be deducted from the county tax burden and included in the municipal tax burden. The 1966 General Assembly failed to approve these recommendations.

Instead, a year later, the 1967 General Assembly adopted a tax revision program that continued the municipal share of the county income tax at the same rate as the municipal share of the State income tax and provided a State grant for police protection based on expenditures and distributed among the county and municipal corporations in relation to expenditures.

[10]Shandy and Wilson state this Commission concluded "no single solution [can] be developed to fit the varying needs of the State, but … any possible solutions must be developed on a county-by-county basis, bearing in mind the character of the respective local governments involved, the nature of services which they render, and the needs and desires of their citizens." Cited in Shandy and Wilson, p. 7.

Despite the efforts of four separate committees to make adjustments to the state shared revenue system after it was established initially, the 1967 General Assembly adopted a tax revision system that continued the municipal share of county income tax.

Existing County-Municipal Fiscal Practices. As part of its research, the Committee on Taxation and Fiscal Matters surveyed county-municipal fiscal relationship practices. Based on its review, the Committee found that "[t]he practices of sharing county property tax revenues and the fixed county grants have their roots in local law and for the most part are designed to offset any inequities arising from the maintenance of county roads."[11] It concluded that "[t]he practice of property tax rate differential needs further examination.[12] The Committee went on to caution that:

> [I]f the premise of the property tax differential is accepted as public policy, the implementation of this premise raises a number of questions as how to calculate the costs of services not provided to municipal residents and how to determine what revenues are involved.[13]

The Committee made four specific points about cost determinations, noting that:

- Street construction, maintenance and street lighting expenditures were easy to determine because these responsibilities are geographically defined.

- Expenditures for services such as police protection, fire protection and parks and recreation could be 1) supplemental, 2) a substitution of county services, or 3) a combination of both.

- For some services, e.g. refuse disposal, a municipality that provides collection and disposal may provide a more comprehensive program than a county refuse disposal program open to all residents.

- True county costs may be more than program costs if the appropriation does not reflect retirement or other administrative costs.

The Committee's observations about the allocation of revenues covered the treatment of program fees and revenues received by municipalities under the state's shared revenue system. Specifically, the Committee recommended that:

- Revenues directly related to non-municipal expenditure, such as building permit fees or recreation program fees, should be used to offset the costs of the expenditure borne by the property tax; and

[11] The Tax Rate Differential Report, p. 324.
[12] Ibid. Its review of existing practices included 1) a 20 cent county property tax rate differential in Harford County for municipal residents for expenditures for county roads and street lighting; 2) special ad valorem taxes for certain services in Montgomery and Prince Georges counties that are not imposed if the services are not offered to municipal residents; 3) Local laws in Cecil County in 1969 and Allegany County in 1970 that authorize the county to impose differential property tax rates for municipal residents; and a differential provided for two years in Anne Arundel County before it was discontinued in 1968.
[13] Ibid.

- "If the municipal corporation receives certain revenues from the State or the county for use of municipal residents *then the county should be able to apply an equivalent share of these revenues to services that benefit solely the county residents outside municipal corporations.* Such revenues would include State shared taxes such as admissions, racing, licenses and one-half of the corporation franchise tax; a share of the county income tax equivalent to .37% of the net taxable income of non-municipal residents; a share of county funds equivalent to that portion of the tax on bank shares which was retained for county purposes; and any existing grants or differentials provided by local law or local practice." (emphasis added)[14]

Conclusions and Recommendations. IGS' summary of the Tax Differential Report in its policy research report cites three Committee conclusions that remain relevant:

- ***There are instances … where the residents of municipal corporations are paying county taxes for services that are not provided to them by the county and for which they also must pay municipal taxes for the same service.*** The most easily identified service is highway maintenance. Other services that can be subject to double taxation are police protection, parks, recreation, refuse disposal, planning and zoning and mosquito control.

- ***The existing allocation of State shared taxes among counties and municipal corporations and the existing requirements for the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided***. Consequently while some municipal residents are being subject to double taxation, some municipal residents are receiving double benefit from the allocation of non-property tax revenues. In such instances the residents outside of municipal corporations are paying a higher property tax rate than they should be paying.

- ***The Committee does not believe that a state mandated property tax rate differential for municipal residents is warranted at this time. It believes that while State action could correct some inequities it might also tend to promote the uneconomical or ineffective providing of services by small units of government and limit the flexibility of transferring or merging governmental services at the local level.*** The Committee also believes because of the variation in the types of governmental services provided by the local governments that determination of the countywide nature of a service can only be made at the county level and not at the state level.[15]

Municipal Tax Duplication Methods and Formulas

A review of IGS' studies suggests that tax duplication programs must establish methods and administrative practices that answer three questions**:**

- What are the shared services that are funded by more than one jurisdiction?
- What are the costs of these shared services?
- What is the basis for the rebate payment and how much is it?

[14] The Tax Differential Report, p. 325.
[15] The Tax Differential Report, p. 330.

IGS' technical assistance studies provide numerous methodologies to help jurisdictions establish practices and formulas that answer these questions.

Identifying Parallel Funding for Shared Services. As explained earlier, Maryland law simultaneously gives counties and municipalities concurrent authority to levy a property tax and home rule authority to decide the discretionary shared services they want to deliver. When parallel spending for shared services occurs, a County must determine whether a property tax rebate is warranted. This is a two step process that consists of first determining where parallel funding for shared services exists, and then determining which of the shared service activities that have parallel funding merit designation as a reimbursable service.

This study uses the term "reimbursable services" to refer to those activities in the shared services categories where concurrent County and municipal spending provides an equivalent service. This subset of shared services consists of those activities that a County designates as eligible for a rebate through its municipal tax duplication program. This designation indicates that a County recognizes that subset of municipal services are equivalent in terms of type and cost to the shared services the County provides to its nonmunicipal residents and that the County intends to deliver these services through a shared provider system.

Since a County and its municipalities exercise their home rule authority independently, answers to the questions of 1) whether shared services exist and 2) whether these services are reimbursable are not self-evident. Moreover, answers to these questions may vary among municipalities within the same County because the services each municipality chooses to fund will differ depending on their residents' service choices and what they can afford.

Identifying Shared Services Spending and Reimbursable Services. To answer the question of where County/municipal shared services spending exists, the IGS tax differential methodology reviews jurisdictions' Uniform Financial Reports or budget documents to identify and classify service categories that have parallel County and municipal service spending. As IGS explains, "because counties and municipalities do not provide exactly the same number and type of services, one must analyze their Uniform Financial Reports to identify county services that parallel or duplicate municipal services."[16]

Service Rate Factors. A County can use the IGS' methodology to identify where parallel County and municipal funding exists for an equivalent activity; however, issues may exist if the municipal service level effort does not equal that of the County. In this case, the IGS methodology recommends the use of service rate factors. Applying a service rate factor allows the County's list of reimbursable activities to recognize those situations where the type of municipal service is equivalent to the County funded service, but the level of effort is not. IGS advises that the basis for the service rate be the level or rate at which the municipality provides the service.[17]

Cost of Services and Rebate Formulas. The heart of an MTD program is a formula that determines the amount of a County rebate or tax differential. As the MML Handbook recognizes, "selecting a formula to measure the extent of double taxation and determine the appropriate differential or rebate is the most important and most controversial part of the process."[18] MML advises that formulas "recognize all services performed by the municipality which are duplicated by the county."[19]

[16] Shandy and Wilson, p. 12.
[17] Ibid, Note 42, p.18.
[18] MML, Tax Set-Off Handbook, p. 4.
[19] Ibid.

MML stresses the importance of flexibility and it cautions against complexity. Its Handbook states:

> It is also important that the formula be flexible enough to recognize changing circumstances. A tax differential or municipal rebate program which grants municipal residents a fixed level of benefits may become less meaningful if the county greatly increases services to unincorporated areas, or if a municipality elects to expand its services. ….A fixed grant to municipalities of a specified number of dollars will eventually be eroded by inflation. Tax differentials need to be tied to a base which reflects the level of county services provided to municipal residents year by year or else be subject to review and revision at specified time periods.[20]
>
> Avoid developing a formula which is too elaborate. The county officials won't understand it, municipal officials won't understand it, and it will boil down to an argument between county and municipal accountants. The methodology is not that important anyway, because it is always, in the end, a political decision.[21]

Over the years, as part of its technical assistant services to Maryland local governments, IGS developed two general methodologies, one that uses county expenditure data and another that uses municipal expenditure data. MML observes that "while neither version can be relied on to set the exact differential or rebate, they can provide a good basis for negotiations."[22] IGS echoes the idea of a MTD program as a structured negotiation along with the idea using one or more formulas to set a floor and a ceiling to bracket the rebate amount. In a study for Ocean City, the author states:

> The results produced under IGS Approach 1 and IGS Approach 2 are meant to be the beginning points of discussion between county and municipal officials. Tax differentials are always cause for negotiations. No one but the parties can decide what might be a proper result under all the circumstances that prevail in a jurisdiction. The data presented here provide a list of services and a set of numbers to begin discussion. If the parties agree that this list of services and numerical data are more or less supportable, then the results produced here can acquire more meaning. The larger of the two reported results, for example, can be viewed as a ceiling – the maximum amount the county might consider as a tax setoff. The small of the two results might be viewed as a floor – the minimum amount the county might consider. Serious negotiations can then focus on amounts that lie between these two figures.[23]

Understanding MTD formulas and their results is critical because the formulas direct the ultimate policy outcome. To familiarize readers with these formulas, OLO summarized the step by step calculations for each approach.

The "Saved County Costs" Approach. This methodology generates a reimbursement that estimates county taxes paid by municipal residents for shared services outside municipal boundaries. For example, for transportation, the result is the county property taxes paid by municipal residents for <u>county</u> road maintenance.[24] IGS' calculation methodology can be grouped into three parts, as shown below. Exhibit 2 details the steps involved in the calculation, using transportation services as an example in certain steps.

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[20] Tax Set-Off Handbook, p. 5.
[21] Tax Set-Off Handbook, p. 13.
[22] Tax Set-Off Handbook, p. 4.
[23] Tervala, V. "Two Approaches for Computing Property Tax Differentials for Property in Ocean City, Maryland." Institute for Governmental Service, Project M-117, May 1999, p.17.
[24] Note that this approach and current County formulas both estimate saved County costs; however, they are not comparable. The County formula defines "County savings" as the amount the County would spend if it were to provide municipal services

Exhibit 2: Steps to Calculate a Municipal Tax Rebate That Reflects "Saved County Costs"

PART I: Estimated County Spending for Shared Services

- **Step 1** determines "the duplicated service expenditure" (in this case the county's transportation spending), and includes both direct and indirect costs.
  - Adjusts the direct spending to subtract county grants since the intent is to "represent the amount the county spends on services that the municipality does not receive."
  - Adjusts the indirect spending to include amounts of miscellaneous expenditures, such as employee benefits, that are attributable to the duplicated services.

PART II: Shared Service Spending Attributable to Property Taxes

- **Step 2** separates county revenue into earmarked and non-earmarked revenue, and further divides earmarked revenue into those revenues that support transportation and all other earmarked revenue.
- **Step 3** subtracts the total earmarked revenue from the Total General Fund Revenue to determine the "Non-earmarked General Fund Revenue."
- **Step 4** divides Net Property Tax Revenue into the Non-earmarked General Fund Revenue to determine the share of property tax funding.
- **Step 5** determines the amount of transportation spending attributable to property tax revenue in two steps:
  - 5a subtracts the earmarked revenue for transportation (from Step 2) to find out the amount of transportation spending funded by non-earmarked revenue; and
  - 5b multiplies this result by the property tax share (from Step 4) to find out the amount of shared service spending attributable to property taxes.

PART III: Tax Differentials and Tax Rebate Amounts

- **Step 6** divides the shared service spending attributable to property taxes (Step 5b) by the unincorporated tax base/100 to calculate the tax differential.
- **Step 7** multiplies the shared service spending attributable to property taxes (Step 5b) by the city tax base/100 to calculate the reduction in the city tax rate.
- **Step 8** has two parts:
  - Step 8a multiplies the reduction in the city tax rate (from Step 7) by the city tax base/100 to find out the county revenue shortfall; and
  - Step 8b divides the county revenue shortfall by the unincorporated tax base/100 to find out the tax rate increase for unincorporated residents.
- **Step 9** multiplies the tax differential (from Step 6) by the city tax base/100 to determine the total tax rebate.
- **Step 10** divides the total tax rebate (from Step 9) by the county tax base/100 to determine the addition to the county tax rate.

Source: OLO and IGS Project M-117.

at the County's service level. This approach defines "County savings" as the amount municipal taxpayers spend for county road maintenance outside municipal boundaries.

The Municipal Replacement Costs Approach. This methodology estimates a tax rebate based on the assumption that tax revenues from non-municipal property owners replace municipal expenditures. IGS' calculation methodology can be grouped into three parts, as shown below. Exhibit 3 details the steps involved in the calculation, using transportation services as an example in certain steps.

Exhibit 3: Steps to Calculate a Tax Rebate That Reflects "Municipal Replacement Costs"

PART I: Estimated Municipal Spending for Shared Services

- **Step 1** determines "the duplicated service expenditure" (in this case **a municipality's** transportation spending), and includes both direct and indirect costs.
  - The direct spending reflects on duplicated service costs.
  - The calculation for indirect costs finds the ratio of duplicated service costs to all direct program costs and applies that share to the general government expenditures to reflect the administrative and overhead costs attributable to the duplicated service costs.
  - The direct and indirect costs together represent total municipal spending on shared services.

PART II: Shared Service Spending to be Supported by Property Taxes

- **Step 2** reviews a schedule of municipal revenues to determine "the amount of municipal revenue that would revert to the county in the event [the municipality] no longer provided the duplicated services. These revenues could include intergovernmental revenues from the State or County or program service charges.
- **Step 3** subtracts the revenues that would revert to the county from the expenditures for duplicated services (from Step 1) to determine the net transportation expenditures.
- **Step 4** divides the net expenditure by the county tax base/100 to determine the county tax rate increase that would fund the net expenditure amount.

PART III: Tax Differentials and Tax Rebate Amounts

- **Step 5** determines the amount of new property tax revenue the county tax rate increase (from Step 4) would generate from city taxpayers. This amount equates to the new service cost for city taxpayers if the county were to provide the services.
- **Step 6** subtracts the new service cost (from Step 5) from the net expenditure amount (from Step 3) to determine the savings city taxpayers would realize. As characterized by this IGS methodology, this amount also represents 1) how much city residents are overpaying for services and 2) the county revenue shortfall.
- **Step 7** divides the amount of "overspending" (from Step 6) by the city tax base/100 to calculate how much the county tax rate paid by municipal residents would be reduced to refund their savings to them.
- **Step 8** divides the unincorporated tax base/100 into the county revenue shortfall (from Step 6) to calculate the higher rate the county would have to levy on property owners outside the municipality to fund the county the revenue shortfall.
- **Step 9** adds the new county municipal tax rate (from Step 7) and the new county non-municipal tax rate (from Step 8) together to determine the tax differential.
- **Step 10** multiplies the tax differential (from Step 9) by the city tax base/100 to determine the municipal tax rebate.

Source: OLO and IGS Project M-117.

III. A Statewide Perspective on Municipal Tax Duplication Programs

Eighteen of Maryland's counties have municipal tax duplication programs that provide tax differentials or tax rebates to 138 municipalities. In FY12, the value of these programs totaled $102.5 million; $81 million from tax differentials and $21.4 million from tax rebates. Approximately 93% of the state's municipal residents reside in a municipality that participates in a tax duplication program.

Despite their prevalence, municipal tax duplication programs across the State vary widely. This chapter uses data from *Property Tax Set-Offs: The Use of Local Property Tax Differentials and Tax Rebates in Maryland Fiscal 2012* ("the Tax Set-Off Report"), a report published annually by the Department of Legislative Services (DLS), to show that variation. It is organized as follows:

- **Part A** displays the total value of municipal tax duplication program by County from FY07 through FY12; and
- **Part B** presents data on per capita rebates and the type of shared services being reimbursed for the state's 25 most populous municipalities.

A. Voluntary and Mandatory Programs

The administrative structure for the municipal property tax rebate program in State law creates two classes of counties: 1) counties that <u>must</u> provide a tax differential or rebate, and 2) counties that <u>may</u> provide a tax differential or rebate. Of the 23 Maryland counties, seven have mandatory programs and 11 have voluntary programs as listed in the exhibit below. The remaining counties either do not have any municipalities (Howard and Baltimore) or have chosen not to implement a tax duplication program (Queen Anne's, Wicomico, and Worcester).

Exhibit 4: Maryland Counties with Municipal Tax Duplication Programs

Mandatory Programs	Program Type*		Voluntary Programs	Program Type*	
	Differential	Rebate		Differential	Rebate
Allegany	✓		Calvert	✓	
Anne Arundel	✓		Caroline	✓	
Frederick		✓	Carroll		✓
Garrett	✓	✓	Cecil		✓
Harford	✓	✓	Charles	✓	
Montgomery		✓	Dorchester	✓	✓
Prince George's	✓	✓	Kent		✓
			Somerset		✓
			St. Mary's		✓
			Talbot	✓	
			Washington	✓	

*As of 2012. Source: OLO and DLS

Table 3-1 displays trends in rebates or reimbursements since FY07 for the 18 counties that have property tax duplication programs. Counties are organized based on whether their program is mandatory or voluntary, and the table displays each county's share of municipal population. The data show:

- Among the seven counties with mandatory programs, those with the highest reimbursements were Prince George's ($33.1 million), Anne Arundel ($26.2 million), Frederick ($7.4 million) and Montgomery ($6.3million).

- Six of the seven counties with mandatory programs saw their rebates or tax differentials increase since FY07; the only decline was in Montgomery County. Prince George's saw a $17 million increase (from $16.1 million in FY07 to $33.1 million in FY12).

- Three counties with voluntary programs have a relatively small proportion of municipal residents, but a large variation in total rebate amounts. St. Mary's County had the fewest municipal residents (3%) and the lowest rebate amount in FY12 ($55,230). In Calvert and Charles counties, municipal residents account for 9% of the population while their FY12 rebates were $3.3 million and $1.1 million respectively.

- Seven counties with voluntary programs have a relatively high proportion of municipal residents, and their rebate amounts vary as well. For example, in FY12:

    - Cecil and Carroll counties, both with 29% municipal residents, had rebates of $836,000 and $2.4 million respectively; and
    - Dorchester County (with 49% municipal residents) and Talbot County (with 50%) had rebates of $362,000 and $3.9 million respectively.

Table 3-1: Statewide Profile of Municipal Tax Duplication Program Rebates and Tax Differentials, FY07 to FY12

County (# of municipalities in the MTD program)	% Municipal Population	FY07	FY08	FY09	FY10	FY11	FY12	FY07-FY12 Change	
								$ Value	%
Mandatory Programs									
Allegany (7)	45%	$931,935	$967,408	$1,058,874	$1,204,375	$1,314,728	$2,134,055	$1,202,120	129%
Anne Arundel (1)	7%	$19,614,189	$23,536,241	$26,576,259	$25,314,437	$25,583,433	$26,196,505	$6,582,316	34%
Frederick (12)	42%	$6,012,915	$6,581,698	$7,393,431	$6,601,768	$7,402,079	$7,402,079	$1,389,164	23%
Garrett (7)	23%	$136,012	$242,137	$276,206	$227,125	$263,264	$278,224	$142,212	105%
Harford (3)	16%	$6,441,297	$7,581,034	$8,778,392	$9,472,742	$9,358,019	$9,659,678	$3,218,381	50%
Montgomery (20)	17%	$7,438,235	$7,438,235	$7,424,836	$7,482,613	$6,352,936	$6,371,842	-$1,066,393	-14%
Prince George's (27)	27%	$16,085,835	$21,922,277	$28,241,074	$34,275,316	$38,471,366	$33,102,607	$17,016,772	106%
Voluntary Programs									
Calvert (2)	9%	$2,365,852	$2,696,158	$3,268,735	$3,704,026	$4,153,934	$3,306,182	$940,330	40%
Caroline (10)	37%	$727,333	$883,927	$1,024,121	$1,046,937	$1,077,916	$549,085	-$178,248	-25%
Carroll (8)	29%	$2,048,180	$2,145,793	$2,232,534	$2,331,479	$2,364,423	$2,378,303	$330,123	16%
Cecil (8)	29%	$550,898	$684,484	$750,269	$813,452	$832,861	$837,572	$286,674	52%
Charles (2)	9%	$472,399	$908,329	$1,052,643	$913,414	$1,132,817	$1,125,822	$653,423	138%
Dorchester (9)	49%	$69,000	$198,664	$462,003	$461,729	$455,441	$361,729	$292,729	424%
Kent (5)	40%	$148,245	$164,945	$164,945	$185,633	$195,986	$193,341	$45,096	30%
Somerset (2)	23%	--	--	$300,000	$300,000	$300,000	$300,000	$300,000	
St. Mary's (1)	3%	$53,796	$55,780	$55,780	$64,425	$66,659	$52,230	-$1,566	-3%
Talbot (5)	50%	$2,301,956	$3,046,713	$3,655,166	$4,076,993	$3,869,879	$3,865,485	$1,563,529	68%
Washington (9)	36%	$1,561,700	$1,821,506	$1,906,923	$1,988,255	$5,129,101	$4,335,015	$2,773,315	178%
TOTALS		**$66,959,777**	**$80,875,329**	**$94,622,191**	**$100,464,719**	**$108,324,842**	**$102,449,754**	**$35,489,977**	**53%**

Source: OLO and DLS.

B. Municipal Tax Duplication Programs for the 25 Largest Cities

Table 3-2 (on the next page) presents municipal reimbursement and rebate data for the 25 largest cities in the state. Eighteen of these cities are in counties with mandatory programs, while the remaining seven are in counties with voluntary programs. In FY12:

- On a per capita basis, Annapolis received the largest reimbursement (valued at $674 per person) while College Park ($14 per person) and Gaithersburg ($17 per person) received the smallest reimbursements.

- The most heavily represented service areas were police (20 municipalities), public works (12 municipalities) and code enforcement (10 municipalities).

- Among the mandatory programs, eight Prince George's County municipalities provided the highest number of services (ranging from 7 to 9 services), followed by two Allegany County municipalities (6 services), Annapolis (5 services), and three Montgomery County municipalities (3 to 4 services).

- The cities of Frederick, Rockville, Gaithersburg and Bowie are the four largest municipalities in the state; however, Bowie's per capita reimbursement rate ($176 per person) was roughly six times that of Rockville's ($30 per person) and ten times that of Gaithersburg's ($17 per person). The City of Frederick's per capita reimbursement was $76.

Table 3-2: FY12 Reimbursement per Capita and Types of Shared Services Delivered in 25 Largest Municipalities

County	City	Population	Per capita MTD Reimb.	Animal Control	Code Enforcement	Crossing Guards	Elderly Services	Emergency Services	Fire	Highway Construction/ Maintenance	Housing and Community Development	Human Relations Commission	Library	Parks and Recreation	Planning/Zoning /Growth Mgmt.	Police	Police Dispatch	Public Works	Road Maintenance	Solid Waste Services	Street Lighting	Traffic Control	**TOTAL**
Mandatory Programs																							
AA	Annapolis	38,880	$674						✓					✓	✓	✓		✓					**5**
AL	Frostburg	8,962	$54					✓		✓					✓	✓		✓		✓			**6**
	Cumberland	20,739	$70					✓		✓					✓	✓		✓		✓			**6**
FR	Frederick	66,169	$76											✓	✓	✓							**3**
HA	Bel Air	10,187	$315													✓			✓				**2**
	Havre de Grace	13,040	$254													✓			✓				**2**
	Aberdeen	15,063	$208													✓			✓				**2**
MO	Takoma Park	17,021	$150			✓								✓		✓			✓				**4**
	Gaithersburg	61,045	$17	✓			✓												✓				**3**
	Rockville	62,334	$30	✓			✓					✓							✓				**4**
PG	Mount Rainier	8,155	$87				✓						✓			✓	✓	✓			✓	✓	**7**
	Bladensburg	9,223	$87				✓				✓					✓	✓	✓			✓	✓	**7**
	New Carrolton	12,248	$100	✓			✓	✓	✓		✓					✓		✓			✓	✓	**9**
	Hyattsville	17,718	$193	✓			✓				✓					✓	✓	✓			✓	✓	**8**
	Greenbelt	23,281	$168	✓			✓		✓		✓					✓	✓	✓			✓	✓	**9**
	Laurel	23,346	$219	✓			✓		✓		✓					✓	✓	✓			✓	✓	**9**
	College Park	30,587	$14	✓			✓		✓		✓							✓			✓	✓	**7**
	Bowie	55,232	$176	✓			✓		✓		✓					✓		✓			✓	✓	**8**
Voluntary Programs																							
CE	Elkton	15,531	$26													✓				✓	✓		**3**
CH	La Plata	8,896	$118											✓	✓	✓		✓					**4**
CR	Mount Airy	9,349	$43																				
	Westminster	18,606	$48																				
DO	Cambridge	12,335	$23												✓	✓							**2**
TA	Easton	16,047	$179		✓									✓	✓	✓							**4**
WA	Hagerstown	39,890	$80											✓	✓	✓		✓					**4**
	TOTAL	**613,884**	**$180**	**8**	**1**	**1**	**10**	**3**	**6**	**2**	**6**	**1**	**1**	**6**	**8**	**20**	**5**	**12**	**6**	**3**	**8**	**8**	

Source: OLO and DLS.

IV. Montgomery County's Municipal Tax Duplication Program's Methods and Formulas

Montgomery County's 22 municipalities and special districts have 162,162 residents that account for 17% of the County's population. Rockville, Gaithersburg and Takoma Park rank second, third and thirteenth respectively among the state's 25 largest cities. The County's tax duplication program covers all but two of its municipalities, and it provides rebates for road maintenance and other services to varying degrees.

As stated in Chapter II, a review of IGS' studies suggests that tax duplication programs must establish methods and administrative practices that answer three questions**:**

1) What are the shared services that are funded by more than one jurisdiction?
2) What are the costs of these shared services?
3) What is the basis for the rebate payment and how much is it?

This chapter reviews County law and program documents and practices to understand the methods Montgomery County's program uses to address these three questions. It is organized as follows:

- **Part A** briefly reviews the early history of Montgomery County's program;
- **Part B** describes the County's methods for determining its list of reimbursable services;
- **Part C** describes the County's methods for determining the costs of its reimbursable services; and
- **Part D** explains the County's methods for determining its rebate payments.

A. History

Section 30A-1 of the County Code establishes "a program to reimburse municipalities within the county for those public services provided by the municipalities which would otherwise be provided by the county government."

As the Council's Government Operations Committee discussed last fall, the County's program was proposed by County Executive Gleason who had directed his budget staff to work with representatives from the local chapter of the Maryland Municipal League to address their concerns about double taxation. The County law took effect in August 1973.[1] The MML Tax Set-off Handbook notes that "between FY74-FY77, the County reimbursed the municipalities a total of $1.57 million, but that the distribution formula was complicated, controversial and occasionally not fully funded by the County."[2] Three subsequent County task force reports (one in 1978, one in 1982 and one in 1996) recommended additions and deletions to both the list of reimbursable services and the reimbursement formulas.

MML also notes that Montgomery County has "a series of special area taxes, closely related to the concept of direct tax differential under which citizens are taxed only for services actually provided to them by a particular level of government. …Special area taxes are used to fund services such as Metro rail and bus systems, recreation, fire service, storm drainage and land acquisition."[3]

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[1] OLO did not locate documentation for the program's initial methods and formulas. The Gleason report provides sample calculations; however, these were based on the municipal replacement cost approach and they provided for a minimum grant. Neither this cost approach nor the provision for a minimum grant were included in the law that was finally enacted.
[2] MML Tax Set-Off Handbook, p. 11.
[3] Ibid. These special area taxes were also noted by the General Assembly's Committee on Taxation and Fiscal Matters Tax Rate Differential Report. See Note 13 in Chapter II.

B. The County's Methods for Determining Reimbursable Services

As explained in Chapter II, a determination of shared services is a useful pre-requisite to establishing a list of reimbursable services; however, the question of whether parallel spending for shared services exists is not self-evident. Moreover, within the same County, the types and number of shared and reimbursable services can vary among municipalities because the services each municipality chooses to fund differ in size and scope.

The IGS methodology recommends an analysis of County and municipal financial reports to identify County/municipal service alignments. In Montgomery County, three factors - the criteria in County law, review and recommendations from periodic task forces, and subsequent Council resolutions - govern how the County makes its determinations of reimbursable services. This section examines Council Resolutions through the four criteria established in County law to assess how the County's methodology works in practice.

County law. Section 30A-2, *Qualification of municipal public services for county reimbursement*, states: "Municipal public services shall qualify for county reimbursement if the following conditions are met:

(1) the municipality provides the service to its residents and taxpayers;
(2) the services would be provided by the county if it were not provided by the municipality;
(3) the service is not actually provided by the county within the municipality; and
(4) the comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality."

Exhibit 5 (on the next page) displays definitions of reimbursable services from Council Resolutions adopted in 1978, 1982 and 1996 to understand how the County's methodology identifies County/municipal service alignments.

Two interesting patterns emerge from reviewing the various resolutions: the first is ongoing references to reimbursements based on "County funding from property tax expenditures" and the second is an ebb and flow of eligibility for reimbursement for different services. These patterns suggest a lack of clarity has developed over the years concerning how the four conditions established in the law are interpreted and/or implemented in administering municipal tax duplication programs. Specifically, the law does not prescribe a specific formula, methodology, or structure for administering the MTD program and as a result does not recognize how shared services are funded (e.g., that special tax districts exist) or explicitly articulate a policy about how the County intends for its shared services to be provided (e.g., that blended service arrangements could be permitted). There are four specific issues with the law leading to the lack of clarity and varying interpretations.

<u>Issue #1 – Whether or not the County would provide a service if a municipality does not (Condition 2).</u> In contrast to the IGS methodology, which uses existing expenditures to define the existence of parallel services, Condition 2 allows the County to **not** provide a rebate in the present based on its own conclusion about a future condition (i.e., the County can determine it would not provide a service if it were not provided by a municipality and thus not reimburse for that service). The original legislative intent of Condition 2 is unclear. It might have been intended to guard against County rebates for supplemental municipal services or it might have been intended to convey that reimbursement costs were to be based on a County savings approach.

Exhibit 5: Changes to the Municipal Revenue Sharing Program by Council Resolution, 1978-1996

Council Resolution 8-222, adopted October 17, 1978
• Established a road reimbursement formula based on the County's funding per mile from property taxes for the operation and debt service of non-municipal County roads.[4]
Council Resolution 9-1752, adopted April 27, 1982
• Revised the road reimbursement formula; [5] • Added a police reimbursement formula;[6] • Added reimbursements for planning and zoning powers based on County property tax expenditures for the Hearing Examiner, the Board of Appeals and the Code Enforcement Sections of various departments with distributions calculated on a per parcel of land basis; • Added reimbursements for housing-related services based on County property tax expenditures for weed control, rodent control and landlord-tenant services with distributions to municipalities calculated on a per dwelling unit basis; • Added reimbursements for animal control with reimbursements based on County property tax expenditures excluding costs for the Animal Shelter with distributions based on the number of dwelling units; • Recommended reimbursements beginning in 1983 for the City of Gaithersburg's consumer affairs services and the City of Rockville's Human Rights Commission; and • Recommended study of Takoma Park reimbursements for police protection, parks maintenance and development, and library services.
Council Resolution 13-650, adopted September 10, 1996
• Revised the road reimbursement formula by replacing the determination of costs attributable to property tax revenue with a methodology that equated the share of "tax supported revenue" with total revenues minus the ratio of Highway User Revenues to Net Transportation Expenditures; • Continued the code enforcement reimbursement formula based on net County property tax supported code enforcement expenditures distributed on a per dwelling or per parcel basis; • Discontinued police reimbursements for Rockville, Gaithersburg and Chevy Chase Village; • Maintained the park maintenance reimbursement formula; and • Maintained all other services based on net County property tax supported expenditures.

Source: Council Resolutions and Task Force Reports, 1978, 1982 and 1996.

[4] 1982 Task Force Report, dated April 8, 1982. "County Council Resolution 8-222, adopted October 17, 1978, established the present formula for reimbursing the municipalities and special taxing districts for street and road related expenditures. Essentially, this formula calculates the County's funding per mile from property taxes for the operation and debt service of non-municipal County roads." p. 3.

[5] The four revisions to the road reimbursement formula were: 1) to allocate TRSA revenue to both mass transit and highways in proportion to the amount of property tax revenues collected by the County for each purpose; 2) to exclude debt service costs for METRO and landfill access roads from the cost calculations; 3) to include investment income as a revenue offset; and 4) to include 10% of County traffic engineering costs since they are not uniform across the municipalities and special taxing districts.

[6] Council Resolution 9-1752 addressed police aid, in part because the State instituted a supplemental police grant (equal to $2 per capita) and the State Code required the County to allocate and distribute a portion of this aid to qualifying municipalities. The Council Resolution reflected the Task Force recommendation to distribute the entire grant to Takoma Park, which was solely responsible for its police services. It recommended that rebates for Chevy Chase Village, Gaithersburg and Rockville use a formula weighted equally between population and number of sworn officers, with the population reimbursement being 80 cents of the $2 grant since the patrol function represented about 40% of the County's police budget.

Issue #2 – Precluding County/municipal service partnerships (Condition 3). As it is currently worded (i.e., service is not actually provided by the county within the municipality), Condition 3 precludes County/municipal service partnerships. As a result, absent a conceptual framework that recognizes service rates or partial service levels, current County law provides no recognition of municipal expenditure contributions that are not full service substitutes.

Issue #3 – Tax revenues vs. property tax expenditures. The reference in Condition 4 to "tax revenues derived partially from taxpayers in the participating municipality" does not explicitly limit MTD calculations or methodologies to property tax revenues. At the same time, the calculations that accompanied the original Gleason report and all three Task Force reports contain numerous, explicit references to reimbursements based on County property tax expenditures and from 1982 to 1996, property tax revenue was the basis for the reimbursement. As an example, the introduction to the 1982 Task Force report states:

> The general principles which the Task Force used are those outlined in Chapter 30A of the Montgomery County Code. These include:
> - the service is provide by the municipality or special taxing district in lieu of being provided by the County;
> - the reimbursement shall be limited to the amount the County would expend if it were providing the service within the municipality or special taxing district; and
> - the reimbursement is for *property tax duplication*, and is, therefore, limited to expenses financed with *property tax revenues paid by all County taxpayers*. (emphasis added)

The disconnect between the reference in Condition 4 of the law to "tax revenues" and multiple Task Force Report references to "property tax expenditures" creates ambiguity about the law's intent and purpose. This is further compounded by formulas that do not in fact calculate expenses attributable to property tax revenues.

Issue #4 – Application of the MTD law to special district tax revenues. Condition 4 does not explicitly address whether the law intended for the County to issue rebates for programs funded with special area property tax revenues. As MML's history notes, a defining characteristic of the County's service structure is its use of special area taxes to fund services that otherwise could be a source of tax duplication. Neither County nor municipal boundaries can be redrawn to address the duplicative taxation issues that arise in the general fund because general fund revenues pay for a bundled package of mandatory and discretionary services, instead of a discrete, discretionary program. In contrast, special area tax districts provide this opportunity and have the advantage of resolving a recurrent issue with a one-time solution.

A Review of Determinations for Police Services. The County methodology that results from the application of this law has led to varied application and interpretation over the years. The issue of whether police services in Gaithersburg, Rockville and Chevy Chase Village qualify as reimbursable services illustrates this variability.

In 1982, the State approved a supplemental police grant of $2 per capita for each county and required the county to allocate and distribute part of the grant to its municipalities. The 1982 Task Force noted that municipalities received basic police aid directly from the State. The formula for this supplemental aid used each jurisdiction's proportion of actual police expenditures to reimburse municipalities for their contribution to total police protection and account for service level variations. The Task Force explained that Chevy Chase Village, Gaithersburg and Rockville "provide supplemental patrol services; they do not have the full range of services provided by the County police; it is estimated that about 40% of the County police budget is for patrol services."[7]

The Task Force discussed three alternative allocation formulas: population, number of sworn officers, and the State formula for basic police aid. The formula it recommended that was subsequently approved by the Council:

- Provided the $2 per capita supplemental grant to the City of Takoma Park because the County did not provide police services within the city limits;

- Calculated the reimbursement for Chevy Chase Village, Gaithersburg and Rockville with a formula weighted equally between population and number of sworn officers. The reimbursement for population was set at 80 cents of the $2.00 grant since the municipalities provided essentially patrol service and the patrol function represented about 40% of the County's police budget. The use of the number of sworn officers was a measure of level of effort.[8]

The County reimbursed the municipalities for patrol services using this formula until the 1996 Task Force disqualified these services as eligible for reimbursement. The 1996 Task Force report made no reference to changes in revenue, e.g., the State's supplemental police grant, or changes in municipal expenditures for police service as the basis for its decision. Instead, after review of County and municipal staffing and dispatches, its decision was based on concluding that "[since] the County does not currently use the presence of Gaithersburg, Rockville and Village of Chevy Chase police forces in determining their resource and beat allocation formulas, no duplication reimbursement is recommended."[9]

The Task Force report explained that the decision to disqualify these services rested, in part, on "the amount the County would spend to provide the service;"[10] however, this is the basis for setting the reimbursement amount, not one of the four specified eligibility conditions. The effect of using the basis for the reimbursement amount as a new eligibility condition allowed the County to characterize the services as supplemental and use this to justify not recognizing the municipal expenditures. The 1996 Task Force report's explanation of the County's reasoning states:

> [T]he basis for the reimbursement program should be the amount the County would spend to provide a duplicated service rather than the amount spent by a municipality to provide a service. The County reasons that if the municipalities no longer provided police services to their residents, the County would expend the same dollar amount now expended countywide and provide a somewhat lower level of service countywide. That is, the County police would not necessarily provide the same level of service that either municipal or other County residents receive today. Using this reasoning the municipal police services is a supplemental rather than a duplicated service. Therefore, we recommend no duplication reimbursement be made at this time.[11]

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[7] Report of the Task Force on County-Municipality Financial Relationships and Revisions to the County's Municipal Revenue Program. Attachment to Council Resolution 9-1752, p. 6.
[8] 1982 Task Force Report, p. 6-7.
[9] Tax Duplication Task Force Final Report, June 5, 1996. Cited in Appendix 7 of the Municipal Revenue Sharing Task Force Final Report, June 2012. p. 7-2.
[10] Ibid, p. 7-14.
[11] Ibid.

The Results of Applying the County's Current Methodology. The County's tax duplication program currently reimburses for ten services shown in Exhibit 6 The service types with the largest municipal coverages are: animal control, road maintenance and senior transportation. For the other seven services, more than 97% of County residents, including municipal residents, use the County as their service provider. This list of reimbursable services is incomplete without addressing the police service issue discussed earlier. Nonetheless, even with police services included, the picture that emerges from Exhibit 6 shows that Montgomery County currently operates largely as a full-service county.

Exhibit 6: Current List of Reimbursable Services and Municipal Providers

Item	Reimbursable Services	Municipal Providers	% of County population served by: The County	A Municipality
1	Animal Control	Rockville Gaithersburg	87.6%	12.4%
2	Board of Appeals	Town of Chevy Chase	99.7%	0.3%
3	Crossing Guards	Takoma Park	98.3%	1.7%
4	Hearing Examiner	Town of Chevy Chase	99.7%	0.3%
5	Human Rights	Rockville		
6	Park Maintenance	Chevy Chase Sec. 3 Town of Chevy Chase Friendship Heights Kensington Takoma Park	97.2%	2.8%
7	Police	Takoma Park	98.3	1.7%
8	Road Maintenance	All Except Barnesville	86.6%	13.4%
9	Senior Groceries	Friendship Heights	99.5%	0.5%
10	Senior Transportation	Friendship Heights Gaithersburg Rockville	87.1%	12.9%

Source: OLO and OMB.

C. The County's Methods for Determining Costs of Service

As described in Chapter II, IGS' tax differential methodology for determining costs of service consists of steps to calculate total county expenditures, including factors that adjust for overhead and administrative costs, and steps to net out parallel service, non property tax revenues (both earmarked and general) to indirectly determine the amount of property tax revenue that funds a parallel service.

IGS recommends the use of service rates for those cases where "municipalities may not fully provide each service in lieu of a parallel county service. In such cases, the municipality may be entitled to partial but not full credit for providing these services."[12] IGS' tax differential methodology also distinguishes between calculations to determine costs of service and those that establish the property tax differential or equivalent rebate amounts.

The County's methodology follows steps to calculate costs of service; unlike IGS' tax differential methodology, it does not have subsequent steps to calculate a property tax differential and an equivalent rebate amount. Despite their differences, the steps in the IGS methodology that address costs of service are useful for assessing the County's costs of service formulas.

County Law and Task Force Reports. Section 30A-3 of the County Code assigns the responsibility for a cost of service methodology to the County Executive. The Office of Management and Budget (OMB) has lead responsibility. A review of Council staff files finds numerous documents and memoranda that show, over the years, OMB staff have periodically conducted comprehensive reviews of the County's reimbursement formulas.

Task Force reports also serve as reference guides for reimbursement formulas. In an attachment to a February 2001 memorandum responding to City concerns about the Takoma Park Police rebate formula, OMB explained that the County's MTD payments for FY01 and for the County Executive's FY02 Budget were based on recommendations in the 1996 Tax Duplication Task Force Final Report. OMB added "this report is not more specific about calculations for the Takoma Park Police payment other than: 1) using actual net County expenditures for two prior years; and 2) using the standard of the expenditures that would be incurred had the County provided the service."[13]

Methods. OMB's methods for calculating Municipal Tax Duplication reimbursement amounts rely on three types of cost formulas depending on the specific services: adjusting prior year payments for inflation, using unit cost formulas, and using personnel cost/workload factor formulas. Below is a brief review of the key formula features for the different service types (see Appendix P for documentation of the formula calculations), plus two additional Takoma Park rebates, one for library and one for police services. In contrast to the MTD full-cost formulas, the Takoma Park rebate amounts are based on duplicative property taxes with methodologies established in the County Code.

- **Park Maintenance**. According to the 1996 Task Force Report, the park maintenance formula was originally based on a cost accounting system that M-NCPPC stopped using in FY88. Since then, the County has used the 1988 figure plus an inflator. The 2012 Municipal Revenue Sharing Task Force Report decided to update this formula. A subcommittee conducted a review of all municipally owned parks, determined that a number of municipalities that operate municipal parks do not receive a tax duplication payment even though their residents pay the Park Tax, and developed a new payment methodology that was endorsed by the Task Force. The new methodology establishes a classification system and applies a unit cost approach based on average costs per acre. As the Task Force Report describes it:

  > The model is based on classifying municipal parks into the M-NCPPC park categories as defined in the Parks and Recreation Open Space Plan (PROS Plan) for community use parks. The payment would equal M-NCPPC's average cost per acre by park type as calculated by M-NCPPC's SmartParks System, times the number of acres in the municipal park. A capital

[12] Shandy and Wilson, p. 12.

[13] Memorandum dated May 10, 2001 to County Council from Charles H. Sherer, Legislative Analyst. Recommendation from the Management and Fiscal Policy Committee regarding the Executive's amendment to the FY02 Operating Budget for the Municipal Tax Duplication NDA for Takoma Park regarding police services ($139,870). Agenda #7.1 May 14, 2001, ©7.

renovation factor is proposed for specific capital improvements, including playgrounds, basketball courts, and tennis courts based on M-NCPPC's cost experience. An administrative overhead factor was also added based on the M-NCPPC's cost for second level supervisors not captured in the SmartParks system.[14]

- **Road Maintenance**. The current road maintenance formula uses adjusted county costs to calculate unit cost factors for road maintenance, storm damage, roadway resurfacing, traffic signs, traffic lights, streetlights, traffic signals, bridges and pedestrian bridges. The DOT costs include both operating and debt service expenditures, plus adjustments to incorporate some overhead costs.

  A separate formula adds select DOT tax-supported operating expenditures and debt service, and subtracts other revenues, except for the State Highway User Revenues, to determine a net tax supported cost. It calculates the ratio of State Highway User Revenues to the net tax-supported cost and subtracts this ratio from 100% to determine the Tax-Supported Factor.

  This approach multiplies each unit cost by the municipality's relevant mileage or equipment count; adds the results and multiplies the total by the Tax Supported Factor to determine each municipality's rebate amount. See Appendix P for a worksheet that explains the steps that make up this calculation.

  The 2012 Task Force discussed but did not reach agreement on a new road maintenance methodology. Areas of disagreement include the portion of overhead costs the formula should capture, the treatment of Highway User Revenues, the display of the tax duplication payment in the budget book, and whether interest costs associated with debt financing should be included along with capital project expenditures.

- **Other Services.** For each of the other reimbursable services (planning and zoning, animal control, human rights, senior transportation and senior grocery services) the County calculates the rebate amount as follows:

  - **Step 1** determines "net tax supported costs" defined as the County program expenditures minus any earmarked program fees, grants or revenues;
  - **Step 2** determines a per capita cost for the County; and
  - **Step 3** multiplies the net per capita cost by the population of the municipality that provides a substitute service to determine the rebate amount.

  As an example**, for the Planning and Zoning Reimbursement** provided to the Town of Chevy Chase, OMB subtracts fee revenues from program expenditures for the County's Board of Appeals and the Hearing Examiner to calculate the net tax-supported cost. This result is divided by the County population to determine a per capita cost. The reimbursement amount is the per capita cost multiplied by the population of the Town of Chevy Chase.

- **Takoma Park Crossing Guards.** This formula uses net program costs to calculate a cost per position and multiplies that amount by the number of crossing guard positions the County provides.

[14] Municipal Revenue Sharing Task Force Report, p. 37.

- **Takoma Park Police Services.** There are two rebates for Takoma Park Police Services, a property tax rebate and an MTD rebate:

- County Code Section 35-5, *Takoma Park Rebate*, requires a County rebate payment to the City for police services where the tax rates are pre-set in the Code at 4.8 cents for real property and 12 cents for personal property. These rates are applied to the City's assessable tax base to determine the rebate amount.

- The County and Takoma Park signed a Memorandum of Understanding (MOU) regarding the County's rebate payment for police services in 2002. This MOU followed two years of conversations between OMB and Takoma Park on the rebate formula.[15]

  Under the 2002 MOU, the rebate is based on a cost of services method using the following data:
  - Staffing resources, i.e. the number of police officers the County would provide for both patrol and investigations;
  - Personnel costs, based on salaries and benefits from the prior year personnel report;
  - Any negotiated general wage adjustments and service increments in effect in the prior year budget;
  - The annual budgeted cost per officer for ongoing supplies and equipment;
  - The estimated number of officers required for patrol from the County's staffing workload model;
  - Reductions from the telephone reporting unit (7.5%) and false alarm reduction unit (5.5%);
  - Supervision costs;
  - Investigator costs; and
  - Amortized vehicle costs.

The methodology includes deductions for the Takoma Park Police Rebate and State Aid for Police Protection, but not for that portion of State Aid for the number of City Officers that exceeded the number the County would use for providing services to Takoma Park. Instead of adjusting for inflation, the methodology was based on current approved budget costs.

Notwithstanding the specificity of the 2002 MOU, the formula for the Takoma Park Police rebate has been a source of ongoing negotiation. In 2004, the County Government's Chief Administrative Officer informed the City that the County intended to amend the formula as provided under the MOU; however, it appears this amendment never took effect.

- **Takoma Park Library Services.** County Code Section 2-53 requires the County to make a Takoma Park Library Annual Payment at the beginning of each fiscal year. The Code requires that the payment amount equal the yield that would be realized if the portion of the general County ad valorem property tax rates required to raise to the Department of Library's appropriation were levied against the City's tax base. The payment cannot exceed the amount the municipality raises for library purposes through its own tax revenues.

[15] The City perceived the County had changed the formula unilaterally. OMB believed it had changed the formula to correct an error that calculated salary costs based on an assumption of all PO III positions instead of a blend of PO I, II and II positions which the County would have used.

To calculate the budgeted payment, OMB:

- Determines the property tax share of General Fund revenues;
- Subtracts library revenues from the library appropriation to determine the net costs;
- Multiplies the two results to determine the net library costs attributable to property tax revenues;
- Divides the net library costs attributable to property tax revenues by the yield of one penny on the County's tax base to determine the portion of the property tax rate that funds the net library costs; and
- Applies this rate to the City's assessable tax base to determine the rebate amount.[16]

This calculation determines the tax paid by City residents for County library services and returns it to the City which also levies a city property tax to fund the Takoma Park library.

IGS vs. County Methodologies. A comparison of the IGS costs of services methodology with the County's Municipal Tax Duplication formulas shows the approaches are more different than alike. Among their similarities: they both address direct program expenditures; they both include pension contributions and health insurance benefits in the calculation of total expenditures; and they both net out intergovernmental aid and earmarked, i.e. program specific, revenues.

The differences are:

- **The data sources**: IGS uses published uniform financial report revenue and service category budget data while the data sources for the County's formulas are internal revenue and budget expense reports generated by the County's internal accounting software;
- **The approach to determine total program costs**: IGS' methodology starts with an expenditure amount for an entire service category whereas the County formulas use numerous discrete amounts to generate a unit cost factor that it combines to establish total program costs;
- **Whether the methodology addresses discrete activity costs**: The County's current list of reimbursable activities requires some County formulas to be applied to more discrete activities, e.g. .crossing guards or elderly shopping; the IGS research OLO reviewed did not address a methodology to develop costs for this level of programming.
- **Whether the methodology addresses debt service**: The County's road maintenance formula as well as the 2012 Task Force's proposed park maintenance formula both address capital costs whereas the IGS methodology does not; and
- **The inclusion of indirect costs**, defined as overhead spending on legislative affairs, financial administration, personnel administration and general services: IGS' approach includes these indirect costs while the County does not.

The IGS methodology does not have a calculation that compares to the County's HUR factor since its intent is to determine a property tax differential and property tax rebate, not a full tax-supported rebate amount.

D. The County's Methods for Determining Rebate Amounts

The outcome of a municipal tax duplication program is either a municipal rebate payment or a differential County tax rate that, in effect, generates a property tax credit for municipal taxpayers. Under State law, Montgomery County must provide for either a rebate payment or a tax differential.

[16] When the actual payment is made, Finance uses the assessable base data that becomes effective in the new fiscal year.

The legislative history of Section 30A-3. County law does not establish separate definitions or separate methodologies for costs of service and reimbursement amounts; instead, one section equates the reimbursement amount with the cost of services and the second section limits the reimbursement amount to the Council appropriation. In contrast to State law, which mandates a rebate payment or a tax set-off, County law only provides for a rebate payment.

Section 30A-3, *Determination of amount of reimbursement*, assigns the county executive responsibility for the determination of the reimbursement amount. As described earlier, the law equates the determination of the cost of services to the rebate amount and provides "the amount of reimbursement shall be limited to the amount the county executive estimates the county would expend if it were providing the services."

Often, this section is cited as a key difference between County and State law; it is also cited to justify the County's use of a full-cost formula. However, it was not part of the original legislation; instead, the bill the Executive introduced called for the reimbursement to be "an amount determined the County Executive to approximate the amount of *municipal* tax revenues required to fund the eligible services." (Emphasis added)

The source of the current language was an amendment that Councilmember Christeller proposed to address concerns he had about the disconnect between the proposed legislation and the Executive's original report ("the Gleason report") and the effects of "profligate" municipal actions. [17] To align the legislation with the Executive's proposal, Councilmember Christeller's amendment also proposed allowing the County Executive to authorize a minimum grant. The grant language was dropped from the final legislation because of concerns raised by the County Attorney.[18] Section 30A-4, Limitations on expenditures, limits county expenditures to the funds appropriated by the County Council.

Approved Payments Compared to Formula Results. Table 4-1 displays the MTD rebate formula results and the approved program payments since FY07. Some of the differences between the formulas results and the approved payments reflect repayments or payment caps that result when a rebate amount exceeds the amount of property taxes raised by the municipality.

The data show significant gaps between the formula and the approved payments from FY09 through FY12. The shortfalls range from $1.2 million in FY09 to $14.9 million in FY12. The gaps beginning in FY09, FY10 and FY11 reflect Council funding shortfalls largely due to fiscal challenges at the time. The FY12 gap reflects a spike in the road maintenance reimbursement formula due to substantially higher maintenance expenses from weather events in FY10.

[17] In part, Mr. Christeller's concerns were that the draft bill did not correspond to the specifics of the Executive's memorandum nor to those of the staff paper. He said it provided no protection against profligate action by a municipality; and it did not explicitly limit the grants to municipal services which paralleled County services funded by tax revenues derived partially from the municipal residents.

[18] In a memorandum to the Council President dated August 7, 1973, the County Attorney stated "This office has held that the County may not grant to municipalities or reimburse municipalities in excess of the amount of money which the County would expend if it were, in fact, providing the municipal services….There is no authority which we can find under any of the statutory provisions of the State Code, local laws or the Charter which would allow the County Council to take money from County taxpayers for the subsidization of taxpayers who are residents of municipalities."

Table 4-1: Comparison of Reimbursement Formula and Approved Payments, FY07 to FY13 (000s)

Services	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Roads Maintenance	$4,531	$5,053	$5,871		$6,633	$17,830	$4,697
Takoma Park Police	$2,322	$2,090	$2,116		$2,608	$2,637	$2,515
TP Crossing Guards	$163	$175	$174		$197	$191	$182
Board of Appeals	$.3	$.5	$1.1		$1.2	$1.1	$.6
Hearing Examiner	$.9	$1.0	$1.0		$1.0	$1.4	$.8
Elderly Services	$72	$105	$83		$65	$103	$57
Parks Maintenance	$193	$193	$195		$205	$205	$167
HRC	$115	$133	$145		$157	$167	$87
Animal Control	$111	$129	$119		$128	$129	$68
Results	**FY07**	**FY08**	**FY09**	**FY10**	**FY11**	**FY12**	**FY13**
Formula Amount	$7,509	$6,879	$8,705		$9,996	$21,264	$11,582
Actual Payment	$7,459	$7,488	$7,488	$7,488	$6,365	$6,375	$7,777
Difference	($50)	$609	($1,217)	$7,488	($3,631)	($14,889)	($3,805)

Source: OMB. In FY10, the County and municipalities agreed to keep the same payment due to the ongoing work of the 2007 Task Force. As a result, no formula was calculated.

The value of the law equating the results of the cost of services formula to the rebate amount is that it lends objectivity to the determination of the rebate amount. Both MML's reference to early problems with the program's formulas and funding and OLO's review of the legislative files suggest gaps between the formula results and the approved payments are a persistent problem.

For example, in 2006, the County Executive recommended and the County Council approved keeping the FY07 payment for Takoma Park police services the same as FY06 payment, despite the fact that the calculation yielded a payment that was $151,677 below that of the previous year.

According to Council staff, the main causes of the decrease were two offsetting revenue increases: a $60,000 increase in the Takoma Park Police rebate budgeted in a separate Non Departmental Account, and a $72,000 increase in the Maryland State Aid for Police Protection grant. City representatives persuaded the Council that the Executive had made a commitment not to reduce the amount of the payment the previous fall and they had prepared their budget based on that commitment. OLO did not find a consistent set of circumstances to explain this pattern. An unintended consequence of this pattern is that it leads to a public perception of ad hoc decision making.

Takoma Park Rebates. The County budgets for these payments through Non-Departmental Accounts. As Table 4-2 shows, the combined payments totaled $665,290 in FY07 and $1,101,180 in FY13. The library payments in 2011 and 2012 reflect reductions made following the Council's adoption of Expedited Bill 32-10 in May 2010 which authorized a two-year reduction in payments.

Table 4-2: Takoma Park Library and Police Property Tax Rebate Payments, FY07-FY13 (000s)

Rebates	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Libraries	$104	$119	$113	$133	$101	$96	$151
Police	$562	$630	$706	$855	$718	$922	$950
Total	$666	$749	$819	$988	$819	$1,018	$1,101
Annual $ Change	**FY07**	**FY08**	**FY09**	**FY10**	**FY11**	**FY12**	**FY13**
Libraries		$15	($6)	$20	($32)	($5)	$55
Police		$68	$76	$149	($137)	$204	$28
Total		$83	$70	$169	($169)	$199	$83

Source: OMB

V. The Context for the County's Municipal Revenue Sharing Program

As explained in Chapter II, Maryland law simultaneously gives counties and municipalities concurrent authority to levy a property tax and home rule authority to decide the discretionary shared services they want. When municipal expenditures parallel County General Fund expenditures for shared services, a County must determine whether a tax set-off is warranted.

Currently, limited data exists to understand County and municipal shared services budgets, e.g. how large they are, how they differ, how much the MTD rebate costs nonmunicipal taxpayers, or how the state mandate for shared income tax revenue affects municipal and nonmunicipal spending levels. Without a more complete understanding of these budgets, informed decisions about how the County should structure its reimbursable service determinations or what the cost basis for a tax set-off should be are difficult to make.

This chapter uses County General Fund expenditure data from the 2011 Uniform Financial Report and corresponding municipal operations fund expenditure data from the 2011 Local Government Finance Handbook to develop revenue profiles and examine County/municipal parallel spending for shared services.

To focus on those shared services that are funded with general county property tax revenue, this chapter uses County and municipal datasets that capture a subset of revenue and expenditure data. The County dataset excludes County enterprise funds, County special area districts and the debt service fund. The municipal dataset excludes capital funds and enterprise funds, plus certain municipal operation fund expenditures, e.g., for recreation and park services, since County expenditures for these services are not from the general county property tax district. This chapter has four parts:

- **Part A** compares County and municipal revenue sources;
- **Part B** examines County and municipal expenditure data;
- **Part C** provides an analysis of expenditure data for shared services and reimbursable services; and;
- **Part D** provides estimates of the cross-subsidy effects of the state mandates for the MTD rebate and the shared county income tax revenue.

A. County and Municipal Revenue Profiles

IGS advises that "calculating the severity of county compensation for double taxation requires an examination of the fiscal relationships between counties and municipalities, particularly the various sources of local government revenue that fund parallel services." Table 5-1 (on the next page) compares County General Fund and Municipal Operation Fund revenue sources. The data for municipal revenue is cumulative for all the municipalities in Montgomery County. For 2011, this comparison shows:

- Local property, income, and other taxes account for 95% of County General Fund revenue, compared with 66% of municipal revenue.
- Municipal operation funds obtain a greater proportion of revenue from Fees/Other (26% compared to 3%) and Intergovernmental (9% compared to 2%) than the County General Fund;
- Local county income taxes, which account for 18% of municipal revenue, reflect the state mandated distribution of county income taxes shared with municipalities.

The phrase 'own source revenue' refers to those revenues that an entity raises from its own resources. It is an indicator of fiscal self-reliance. The County General Fund's share of own source revenue (at 98%) exceeds that of the Municipal Operation Fund (at 73%). Intergovernmental revenues (at 2%) are the only other-source revenue in the County General Fund. For municipalities, other-source revenues include (County) Local Income Taxes (18%) and Intergovernmental revenues (9%). Together these sources account for 27% of all revenue, leaving the share of municipal own-source revenues at 73%.

Table 5-1: Comparison of County and Municipal General Fund Revenue Sources, 2011

Revenue Source	County General Fund		Municipal Operation Funds	
	$'s	**% of Total**	**$'s**	**% of Total**
Local Property Taxes	$1,061,582,080	40%	$76,919,272	46%
Local Income Taxes (a)	$1,039,234,850	39%	$30,742,526	18%
Local Other Taxes (b)	$433,539,397	16%	$2,184,472	1%
Subtotal Local Tax Revenue		**95%**		**66%**
Licenses and Permits	$10,372,598	0%	$8,195,841	5%
Service Charges	$27,839,697	1%	$11,491,616	7%
Fines and Forfeitures	$18,125,944	1%	$10,370505	6%
Miscellaneous	$16,829,984	1%	$9,311,505	6%
Debt Proceeds	$97,525	0%	$3,268,254	2%
Subtotal Fees/Other Revenue		**3%**		**26%**
Federal Government	$23,370,070	1%	$681,335	0%
State Government (c)	$26,190,990	1%	$2,765,300	2%
County Government	--	--	$8,960,392	5%
Other Government	$2,084,188	0%	$2,155,006	1%
Subtotal Intergovernmental Revenue		**2%**		**9%**
Total	**$2,659,267,323**	**100%**	**$167,046,024**	**100%**
% Own Source	98%		73%	

(a) Local Income Taxes in the Municipal Operations Fund reflect distributed County Income Taxes as mandated by the state's shared revenue structure; (b) Local Other Taxes in the County General Fund reflect the energy tax ($233 million) and other local taxes; in the Municipal Operations Fund, the amount reflects the distribution of state admission and amusement and state hotel/motel taxes to municipalities; (c) State revenue in the Municipal Operations Fund reflect state shared revenue grants for municipal urban services such as state highway user revenues.

B. Overview of County/Municipal Local Government Service Expenditures

IGS advises that it is useful to understand municipal tax duplication programs within the broader context of county/municipal expenditure patterns. As explained in Chapter II, the state grants counties and municipalities concurrent authority to levy property taxes but assigns each political subdivision different service responsibilities. County governments must fund numerous state mandated services, e.g. K-12 education, health and social services, along with other discretionary shared services; municipalities fund discretionary shared services only; they have no state funding mandates. The state mandates for county-only services necessarily limit county dollars that are available for shared services.

Table 5-2 shows the 2011 County General Fund expenditure data for county-only and shared services plus corresponding Municipal Operation Fund data. The service categories listed under county only services are from the County's Uniform Financial Report. The shared service categories are from the Local Government Finances Handbook published by the State Department of Legislative Services. (See Appendix A.)

The municipal data aggregates expenditures for all of the County's municipalities. The data excludes expenditures from County and municipal enterprise funds; it also excludes municipal operation fund expenditures for services provided at the County level through enterprise and/or special district funds (i.e, sewer/solid waste, parks and recreation, and debt service).[1]

For 2011, the data show:

- County-only and shared services spending for the County and all municipalities together totaled $2.5 billion, including $1.8 billion (72%) for county-only and $691 million (28%) for shared services.
- County spending on shared services was $586 million or 25% of all General Fund spending.

Table 5-2: County General Fund and Select Municipal Expenditures by Service Responsibility, 2011

Service Categories	County Expenditures	Municipal Expenditures	Total Expenditures
County Only Services			
Corrections	$62,882,893	--	$62,882,893
Health	$77,826,449	--	$77,826,449
Social Services	$77,826,448	--	$77,826,448
Office of Aging	$13,655,085	--	$13,655,085
Other Social Services	$98,940	--	$98,940
Libraries	$28,292,193	--	$28,292,193
Natural Resources	$642,176	--	$642,176
Tax Rebate	$28,012	--	$28,012
Board of Education	$1,422,564,665	--	$1,422,564,665
Community College	$102,509,792	--	$102,509,792
Other Intergovernmental	$14,879,315	--	$14,879,315
Subtotal County-Only	**$1,801,205,968**	**--**	**$1,801,205,968**
Shared Services			
General Government	$202,175,358	$41,679,124	$243,854,482
Police	$202,113,605	$24,519,313	$226,632,918
Other Public Safety	$26,599,683	$7,358,039	$33,957,722
Transportation	$51,388,398	$16,602,918	$67,991,316
Community Development/Public Housing	$3,839,074	$5,802,987	$9,642,061
Economic Development	$5,561,635	$499,726	$6,061,361
Miscellaneous	$94,024,314	$9,028,487	$103,052,801
Subtotal Shared	**$585,702,067**	**$105,490,594**	**$691,192,661**
Total	**$2,386,908,035**	**$105,490,594**	**$2,492,398,629**

Source: Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

[1] Municipal expenditures for sewer/solid waste, parks and recreation, and debt services totaled $40.9 million in 2011 including $27.9 million for parks and recreation; $7.6 million for debt service and $5.4 million for debt service.

C. Estimates of Shared Services Spending and Spending for Reimbursable Services

As noted in Chapter II, municipal tax duplication programs do not necessarily provide reimbursement for all shared services; this study uses the term "reimbursable services" to refer to that subset of shared services that a County designates as eligible for a tax set-off through its municipal tax duplication program. By definition, "non-reimbursable services" are those shared services that are not eligible for reimbursement. They may also be characterized as sole provider services since each entity separately decides the services it provides to its constituents.

Table 5-3 uses data from Table 5-2 and MTD unit cost data to estimate County and municipal shared service expenditures. This analysis provides insight into the level of coordinated service delivery, since reimbursable services are those the county and municipalities provide jointly (i.e., a municipality provides the service within its boundaries, while the County provides the service outside of the municipal boundaries). In contrast, non-reimbursable services are those that the County provides countywide (including within municipalities) even if a municipality also provides that service for its residents.

The analysis shows larger shares of spending for sole provider services compared to shared provider services. County spending for shared reimbursable services accounted for $198 million or 34% of its shared services. Of the $105 million in municipal shared services spending, $11.3 million (11%) represents service costs reimbursed by the County, compared to $94 million (89%) for sole provider services.

This analysis also shows County support for reimbursable shared services totaled $210 million. So, for each County General Fund dollar, 75 cents supports county-only services, 16 cents supports shared services the County uniquely provides countywide and 9 cents supports shared services the County provides with municipalities.

Table 5-3: Shared Services Estimates for Reimbursable and Non-Reimbursable Services

Shared Service Category	County General Fund Expenditures (a)	Municipal Reimbursements (b)	Total Expenditures and Reimbursements
Shared Services (Reimbursable)			
General Government			
Board of Appeals	$596,995	$1,111	$598,106
Hearing Examiner	$491,723	$1,383	$493,106
Human Rights	$2,107,950	$167,004	$2,274,954
Senior Groceries (c)	$556,754	$2,664	$559,418
Senior Transportation (c)	$655,391	$99,875	$755,266
Subtotal	$4,408,813	$272,037	$4,680,850
Police			
Animal Control	$944,201	$129,069	$1,073,270
Crossing Guards	$4,230,452	$191,207	$4,421,659
Police (d)	$147,947,717	$2,636,814	$150,584,531
Subtotal	$153,122,370	$2,957,090	$156,079,460
Transportation			
Road Maintenance (e)	$40,866,465	$8,148,500	$49,014,965
Subtotal	**$198,397,648**	**$11,327,627**	**$209,775,275**

Table 5-3: Shared Services Estimates for Reimbursable and Non-Reimbursable Services (cont.)

Shared Service Category	County General Fund Expenditures	Municipal Expenditures	Total Expenditures
Non-Reimbursable Services (Sole Provider)			
General Government	$197,766,545	$41,407,087	$239,173,632
Police (f)	$48,991,235	$21,562,223	$70,553,458
Other Public Safety	$26,599,683	$7,358,039	$33,957,722
Transportation	$10,521,933	$8,454,418	$18,976,351
Community Devel./Public Housing	$3,839,074	$5,802,987	$9,642,061
Economic Development	$5,561,635	$499,726	$6,061,361
Miscellaneous	$94,024,314	$9,028,487	$103,052,801
Subtotal	**$387,304,419**	**$94,112,967**	**$481,417,386**
Total Shared Services	**$585,702,067**	**$105,490,594**	**$691,192,661**
% Reimbursable Services	**34%**	**11%**	**30%**
% Non-Reimbursable Services	**66%**	**89%**	**70%**

Sources: OLO, OMB and Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook. (a) Except as noted, these expenditures are calculated using per capita costs for the County service area; (b) These estimates reflect FY11 County actual net service costs; (c) These services are assigned to General Government to simplify the display; (d) These amounts account for expenditures in Organizational Support, Patrol Services and Investigative Services; (e) The basis for the County amount is a per capita municipal rebate payment multiplied by the County service area; (f).The County General Fund amount accounts for expenditures in the Office of the Chief, Management Services, the Security of County Facilities, the Animal Shelter and Grants.

Per Capita Spending for Non-Reimbursable Services. Table 5-4 displays data for the Non-Reimbursable Services from Table 5-3 on a per capita basis. (Costs for reimbursable services are uniform because the MTD formulas use County cost data to calculate reimbursement amounts.) The data show that, on average, municipalities spent approximately $180 more per capita on non-reimbursable shared services in 2011 than the County did. Since municipal residents receive a combined benefit from both County and municipal spending on non-reimbursable services, this effectively increases a municipal resident's per capita spending and widens the per capita spending gap.

Table 5-4: 2011 Per Capita Spending for Non-Reimbursable Services

	County	Municipal	Combined Benefit
Non-Reimbursable Services			
General Government	$203	$255	$458
Police	$50	$133	$183
Other Public Safety	$27	$45	$72
Transportation	$11	$52	$63
Community Dev and Public Housing	$4	$36	$40
Economic Development	$6	$3	$9
Miscellaneous	$96	$56	$152
Total Non-Reimbursable Services	**$397**	**$580**	**$977**

Source: OLO and Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

D. An Assessment of Cross Subsidies in the Shared Services Budget

Last year, after the release of the Municipal Revenue Sharing Task Force report, the Government Operations (GO) Committee raised several questions about the County's program. The GO Committee particularly wanted to better understand any potential subsidy effects created by the MTD program.

This section focuses on the potential subsidy effects of the municipal property tax rebate and the share of county income tax revenues distributed to municipalities. Specifically, it analyzes cost data to review the relationship between the cost to non-municipal taxpayers and the benefit to municipal taxpayers.

1. Per Capita Effects of the Municipal Tax Duplication Payment

In FY13, the County's approved municipal tax duplication payment was $7,776,720. OLO used IGS' methodology to compare the per capita cost of this payment (i.e., the per capita cost to non-municipal taxpayers) and the per capita rebate received by municipalities (i.e., the per capita benefit to municipal taxpayers).

The results of OLO's calculations, displayed in Table 5-5, show:

- The per capita cost to the nonmunicipal taxpayer is about 20% of the per capita benefit to the municipal taxpayer. This reflects the fact that an MTD payment is re-distributing costs from a smaller municipal population and municipal tax base to a larger nonmunicipal population and tax base.

- The combined effect of the municipal credit and the nonmunicipal cost creates a differential benefit of $57.52 per person.

Table 5-5: Per Capita Differential of the FY13 MTD Approved Payment

Municipal Tax Duplication Credit	FY13 Approved Payment (Full Cost Rebate)
Total Value	$7,776,720
Per capita cost to County (nonmunicipal tax base)	($9.56)
Per capita rebate to municipalities (municipal tax base)	$47.96
Difference between County per capita cost and municipal per capita rebate	$57.52

Source: OLO

2. Comparison of Municipal Income Tax Revenues and MTD Payments for Shared Services

OLO's review of MTD program documents found both legislative and research studies that raised concerns about the effects of the state shared revenue structure and its relationship to the establishment or design of an MTD program. For example, in 1970, the Maryland Legislative Council Committee on Taxation and Fiscal Matters reached two conclusions about this issue, excerpted below.

> The Committee further finds that the existing allocation of State-shared taxes among counties and municipal corporations and the existing requirements from the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided. Consequently, while some municipal residents are being subject to double taxation, some municipal residents are receiving double benefit from the allocation of non-property tax revenues. In such instances, the residents outside of municipal corporations are paying a higher property tax rate than they should be paying.[2]

> The Committee does not believe that a state mandated property tax differential for municipal residents is warranted at this time. It believes that while State action could correct some inequities it might also tend to promote the uneconomical or ineffective providing of services by small units of government and limit the flexibility of transferring or merging governmental services at the local level.[3]

IGS' policy research reports also discuss the combined influences of municipal home rule, the state shared revenue structure and MTD programs. As IGS states:

> [T]he amount of state-shared revenue generated by Maryland's tax structure and allocated to counties and municipalities has a substantial impact upon the justification for, and the size of, tax differentials. If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded.[4]

IGS also advises "It is possible that no tax differential could be awarded to small municipalities that provide very few services. In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset the state shared revenue that it receives."[5]

To examine the effects of the state shared revenue structures and the MTD program in Montgomery County as it is currently administered using a full cost basis for reimbursement, this section compares each municipality's <u>total</u> reimbursable shared service costs to the revenue each municipality receives from re-directed county income taxes.[6] This analysis looks at reimbursable service costs because these services are those delivered through the shared provider system; and thus their costs are the source of the tax duplication.

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[2] County Property Tax Rate Differential for Municipal Residents, p. 330.
[3] Ibid.
[4] Shandy and Wilson, p. 10.
[5] Shandy and Wilson, p. 2.
[6] Note that this analysis does not align with the approach IGS suggests. An analysis that followed the IGS approach would use costs that were adjusted to reflect only the property tax share instead of the total costs shown in column A of Table 5-6.

This analysis excludes both County and municipal non-reimbursable services. County non-reimbursable services are excluded because they are provided countywide and their costs are distributed equally among all county taxpayers; all county taxpayers can access, use and benefit from these services. It excludes municipalities' non-reimbursable services because these services are only available to municipal residents and they are appropriately funded entirely by municipal property taxes.

Where the income tax revenue exceeds the reimbursable shared service costs, an MTD rebate payment can be viewed as over-correcting for the inequity that the MTD payment is trying to fix (and thus creating a subsidy from non-municipal to municipal taxpayers). In those cases where the re-directed income tax revenue falls short of the reimbursable shared service costs, the effects of property tax duplication are greater than the benefits of that municipality's state-mandated income tax credit.

Table 5-6 (on the next page) compares each municipality's FY13 reimbursable shared service costs, distributed county income tax revenue, and approved MTD approved payments. These data show:

- In the aggregate, the FY13 distributed county income tax revenue for municipalities of $31 million exceeds by $19 million the municipalities' total reimbursable shared services costs of $11.6 million.

- Distributed county income tax revenue entirely offsets the reimbursable shared service costs for 20 of 22 municipalities in FY13. Takoma Park ($1.4 million less) and Washington Grove ($15,000 less) are the only two municipalities where the distributed county income tax revenue was less.

- For municipalities where the distributed county income tax revenue exceeds the total reimbursable shared service costs, the amount ranges from approximately $30,000 for Glen Echo to $6.5 million for Gaithersburg and $7 million for Rockville.

- When the approved FY13 MTD payments are added to the shared county income tax revenue, the total payments to municipalities are projected to exceed reimbursable shared service costs by $27 million.

3. Adjustments to this analysis for currently unrecognized reimbursable services

Using the IGS methodology, OLO's earlier review identified issues with the County's current list of reimbursable services, including whether the current list should be revised to:

- Exclude park maintenance services since they are not paid for out of the General Fund;
- Include zoning and hearing examiner services in seven municipalities that exercise their own planning and zoning powers; and
- Include police patrol services in Chevy Chase Village, Gaithersburg and Rockville.

Changes to park maintenance and zoning/hearing examiner service reimbursements would have a marginal to small impact on municipalities' costs of service; however, adding reimbursements for police services would have a more substantial impact. For example, reimbursements for police patrol services could increase the total reimbursable shared service costs for Chevy Chase Village (by $32,678), Gaithersburg (by $2.6 million) and Rockville (by $4.7 million). Even with these cost increases, each municipality's distributed county income tax revenues would still exceed its new reimbursable service cost total.

Table 5-6: Comparison of Municipal Reimbursable Shared Service Costs, County Income Tax Revenue and MTD Payments

Municipality	A Reimbursable Shared Service Costs (100%)	B Distributed County Income Tax Revenue	C Difference (B-A)	D FY13 MTD Payment	E Effect of MTD Payment (C+D)
Barnesville	--	$46,781	**$46,781**	--	**$46,781**
Brookeville	$14,837	$111,675	**$96,838**	$ 6,794	**$103,632**
Chevy Chase Town	$233,167	$2,174,114	**$1,940,947**	$130,297	**$2,071,244**
Chevy Chase View	$75,743	$325,909	**$250,166**	$41,275	**$291,441**
Chevy Chase Village	$180,893	$1,414,503	**$1,233,610**	$100,524	**$1,334,134**
Chevy Chase Village, Sec 5	$35,644	$352,674	**$317,030**	--	
Chevy Chase Village, Sec 3	$53,735	$325,420	**$271,685**	$30,796	**$302,481**
Drummond	$8,465	$52,798	**$44,333**	$ 4,613	**$48,946**
Friendship Heights	$100,478	$943,010	**$842,532**	$82,625	**$925,157**
Gaithersburg	$2,085,440	$8,601,966	**$6,516,526**	$1,168,467	**$7,684,993**
Garrett Park	$88,954	$242,280	**$153,326**	$47,593	**$200,919**
Glen Echo	$38,094	$67,925	**$29,831**	$20,762	**$50,593**
Kensington	$229,256	$464,332	**$235,076**	$137,523	**$372,599**
Laytonsville	$23,837	$137,728	**$113,891**	$12,991	**$126,882**
Martin's Additions	$49,233	$353,851	**$304,618**	$26,832	**$331,450**
North Chevy Chase	$43,886	$145,633	**$101,747**	$23,918	**$125,665**
Oakmont	$6,015	$45,236	**$39,221**	$3,278	**$42,499**
Poolesville	$386,513	$1,014,387	**$627,874**	$210,634	**$838,508**
Rockville	$4,065,121	$11,048,348	**$6,983,227**	$2,116,671	**$9,099,898**
Somerset	$97,151	$476,071	**$475,974**	$52,560	**$528,534**
Takoma Park	$3,683,611	$2,330,225	**($1,353,386)**	$3,513,643	**$2,160,257**
Washington Grove	$82,426	$67,660	**($14,766)**	$44,922	**$30,156**
Total	**$11,582,499**	**$30,742,526**	**$19,160,027**	**$7,776,718**	**$26,936,745**

Source: OLO and DLS Local Government Finances Handbook, 2011

VI. Municipal Stakeholder Observations

The Council asked OLO to solicit feedback about the County's Municipal Revenue Sharing Program from municipal representatives (elected officials and staff). To do this, OLO convened one focus group session with representatives from multiple municipalities and also conducted group interviews with representatives from individual municipalities. OLO asked participants to weigh in with specific concerns about the administration of the Municipal Revenue Sharing program and the current law. OLO also asked participants to suggest specific ideas for improvement.

OLO received extensive feedback about issues with the administration of the Municipal Revenue Sharing Program and limited feedback about the current law. The participants' suggestions for improvement generally focused on program administration issues. This chapter summarizes the feedback and suggestions for improvement that OLO heard from municipal representatives.

A. General Perceptions and Agreements

OLO's focus group and interviews elicited four general perceptions and/or areas of agreement that were widely shared among participants:

- **The Municipal Revenue program is well-intentioned; however, in its current form, the program does not adequately address persistent tax differential issues between municipal governments and Montgomery County.** Despite their concerns, representatives emphasized that they have good working relationships with several County departments and appreciate the opportunity to partner with the County.

- **The County emphasizes overall cost savings over an accurate reflection of municipal needs and this emphasis has increased since the financial crisis**. For example, one representative discussed this concern in the context of the County's park tax and corresponding municipal reimbursement payments, stating that the County altered the reimbursement formula in order to lower their own costs and therefore reduce the municipal reimbursement.

- **It is a concern that the annual reimbursement process has an "inherently political element."** Municipal representatives took issue with the County's characterization of the reimbursements as discretionary or "grant" payments. Representatives believe strongly that reimbursement payments should be protected more than they currently are, and that municipalities should not have to "plead their case" for reimbursements to the County Executive on a yearly basis. As one representative noted, these funds are often used to cover expenses for vital services, such as senior transportation services, and do not always reimburse the full differential amount.

- **Municipal representatives are hopeful that the concerns they raised during the Task Force process will be addressed; however, if it looks like this is not feasible, they suggest they would be agreeable to reverting to the provisions of the 1996 Task Force Report and 1996 Council Resolution along with the current Task Force's recommendations for parks.**

B. Specific Concerns

OLO heard extensive concerns about reimbursable services, reimbursement formulas and rebate payments. When asked to suggest specific concerns and offer ideas to improve the design and administration of the

County's program, participants identified issues related to reimbursement payments, reimbursement formulas, services and service level determination, and general process and timing.

The County's reimbursement payments. Participants expressed dissatisfaction with many aspects of the repayment process, ranging from details of how particular formulas are calculated to concerns about how rebate information is disseminated. OLO heard the following themes:

- Reimbursement payments to municipalities often do not meet corresponding municipal expenses. Participants expressed concern about the gaps that exist between the County's rebate payments and their expenses. Representatives identified outdated reimbursement formulas and a shift of administrative responsibilities from the County to municipalities, often without commensurate increases in funding, as some of the factors responsible for this discrepancy.

  To respond to the concern about the shortfall in County's reimbursement payments, one representative proposed creating a municipal service tax that would be levied against non-municipal residents to help budget for hypothetical shortfalls going forward.

- One representative also noted the lack of alignment between County reimbursement payments for bridge and infrastructure maintenance versus the expenses municipalities face that vary from year to year. It was suggested that the County not restrict its reimbursement payments to "recurring costs" on an annual basis. The representatives also emphasized that items such as bridge or infrastructure expenditures should not have to be handled "on a case-by-case basis."

The County's reimbursement formulas. Overall, participants noted that the lack of a "predictable, reliable" formula for determining reimbursements has made it more difficult for municipalities to anticipate yearly expenses. Specific themes and/or views include:

- Some participants observed that the County's cost formulas are not realistic. As an example, most participants agreed that the County should not be excluding specific overhead costs merely because it is expedient for them to do so, or "just because it suits them."

- Another shared perception among participants was that no consistent methodology exists for revising the county's reimbursement formulas. Participants observed that the County's reimbursement formulas are recalculated infrequently, and they shared a perception that there are no consistent practices to revise the formulas. With no consistent set of criteria for doing so, participants noted that the results the formulas generate may not accurately reflect what municipalities are owed.

  As a result, some municipalities have attempted to initiate changes to the formulas themselves. For example, one representative commented that they took the initiative to reconfigure their municipality's police services reimbursement formula; however, after submitting the proposed changes to the County Attorney's office for review, no further action has been taken on the issue.

- Another view expressed by a participant was that the County should assume more realistic cost estimates for financing initiatives. One example offered to illustrate this was the suggestion that plans to finance an expenditure using debt service should incorporate interest payments.

Participants offered the following suggestions to address their concerns with the County's reimbursement formulas:

- One representative suggested that the County could more regularly identify the elements of each formula, as well as how often or how recently they are updated. The thinking was that this might help municipalities identify which elements are "still in sync with reality."

- Another representative suggested that the County should specifically identify which formulas apply to which expense categories.

- One representative suggested that the County should certify any components that go into reimbursement formulas.

Services and Service Level Determinations. During the focus group meeting, several representatives agreed that expenses for levels of service that go above or beyond equivalent county services should be paid by the municipalities that provide them, as long as they are "clear cut" uses such as road maintenance. Nonetheless, participants expressed concerns about a lack of standards and specific services, including police and code enforcement.

- One participant observed that a lack of established standards exist to determine *which residents* should be paying for *what services*, as well as which expenses are covered by the aforementioned formulas.

- Some representatives expressed interest in looking into potential police service duplication in the municipalities, and claimed that a substantial number of municipal police officers are patrolling streets in Gaithersburg, Rockville and other areas. At the same time, municipal police departments are being stretched thin by demands from within their own jurisdictions. More importantly, some representatives claimed that municipal governments should receive an additional $500,000 per year in reimbursement payments for police services. However, as of yet, no "meaningful discussions" are going on to address these matters.

- Similarly, representatives also noted that counties and municipalities *both* administer some code enforcement and in some cases a muncipality's required annual inspections for facilities are more stringent than the county's regulations.

Participants offered the following ideas to address their concerns about services:

- One representative suggested that a new section of the County Code be created to cover tax duplication issues that are not clear-cut.

- Another representative suggested that if the County offers a service county-wide, then municipalities should get a corresponding break on any similar services that they offer.

Concerns about timing and process. Views expressed by municipal representatives on timing and process include:

- The process of how reimbursement payments are determined in the County Executive's annual budget is opaque. Representatives have historically received little input and/or context about how their respective municipalities' reimbursement payments are calculated prior to their release in the overall budget, with little advance notice on what these amounts will be. Representatives also noted that no standardized time frame exists for reimbursement payments, either.

- No existing mechanism exists for correcting identified errors in cost calculations after they have been released. One representative noted that errors had previously been found in road maintenance cost calculations after they had already been publicly released. Moreover, this representative expressed concern over how payments are split between service categories for respective municipalities since misrepresentations of how much money is truly required for each component could have the effect of shortchanging other locations.

Participants offered two ideas to address these timing and process concerns:

- One idea suggested by representatives is to establish an "audit process" that would allow municipalities the opportunity to request examination of a county program or service's particulars, as well as how its corresponding formula is calculated.

- Another suggestion was that the County could release relevant information to municipalities 30 days in advance of its budget release (e.g., Feb 1st "would be ideal"); that interval would give municipalities the chance to locate and correct any potential errors.

C. Other Issues

Throughout the conversations and focus group session, participants identified other concerns not directly related to the County's tax duplication program. These concerns included the following:

- **Concerns about County practices of offloading program and other operating expenses, e.g. administration, maintenance on to municipalities, with inadequate funding increases to cover the difference.** Some representatives commented on the County practice of reducing its funding for certain services in a way that passed expenses onto municipalities. One example was fallout from the recession in 2010; another example dated from the late nineties when the County decreased recreation services funding and shifted responsibilities for administering them onto local officials, with facility maintenance and some other responsibilities being handled by the County's Department of Recreation. While the County claimed that it would reimburse the municipality for programming expenses, the representative noted that their reimbursements are increasingly not sufficient to cover their associated expenses.

- **Concerns about the Impact of the County's Energy Tax.** Several representatives asserted that their respective municipalities were not receiving the full amounts of Energy Tax reimbursements.

- **Concerns about Municipalities' Limited Revenue Options.** One representative highlighted a more general issue, stating that municipalities have comparatively fewer options for raising revenues, making it harder for them to cover budget shortfalls.

VII. Municipal Tax Duplication Programs in Other Counties

The Council asked OLO to investigate programs in other jurisdictions to identify strategies that could improve Montgomery County's program. This chapter describes the structure of municipal tax duplication programs in Anne Arundel, Frederick, and Prince Georges' counties. Similar to Montgomery County, these counties must provide a tax differential or rebate to municipalities. Additionally, they are the three most populous counties with municipalities in Maryland after Montgomery County.

A. Anne Arundel County

Anne Arundel County's two municipalities, Annapolis and Highland Beach, have 38,490 residents that account for 7% of the County's population. Annapolis is the state's sixth most populous city. The County's tax duplication program provides a tax differential for only Annapolis since Highland Beach does not provide any shared services. In FY11, Annapolis had the state's highest municipal per capita tax rebate ($674).

Background. The MML Tax Set off Handbook reports Annapolis residents' have received a form of a tax differential since the 1930s when they were exempt from paying any county taxes that paid for county roads or public safety. The tax differential was abolished in FY70 and reinstated in FY72.

Method for determining services eligible for reimbursement. Section 6-307 of the Tax-Property Article, *Services by a municipal corporation in certain counties*, prohibits Anne Arundel County from taxing city residents for services the County provides.[1] This effectively resolves the issue of double taxation for shared services by creating two service areas with exclusive authority for service delivery and clearly delineated funding responsibilities, i.e., the City of Annapolis and the area outside of the City.

Reimbursement formula. The County's FY13 Approved Budget defines the term tax differential as follows:

> The difference between the county tax rate paid outside the City of Annapolis and the rate paid in Annapolis. The reason for the differential is that the City of Annapolis provides its own police, fire, recreation, planning and public works services.[2]

The County's process to determine the City's tax differential consists of the following steps:

- **Step 1** allocates all County spending into countywide and non-city categories.[3]
- **Step 2** assigns all revenues, e.g., taxes, grants and other revenues, except for property taxes, to offset the costs of either countywide or non-city services.

[1] The law states "The governing body of Anne Arundel County or Howard County may not impose a county property tax on property of a resident of a municipal corporation for any service that the municipal corporation provides for the resident."
[2] Anne Arundel County Approved Budget, FY2013, p. 323.
[3] Countywide categories are the same as IGS' "county-only services," (i.e. spending for the Board of Education, Community College, judicial services and detention facilities, health, and human services functions). Non-city categories are the shared services that the County does not provide within the City of Annapolis.

- **Step 3** establishes property tax rates sufficient to offset the remaining net costs from Step 2. A countywide property tax rate, using the countywide tax base, is set to cover the remaining countywide service costs. A nonmunicipal property tax rate, using only the nonmuncipal tax base, is set to cover the remaining non-city service costs. The nonmunicipal tax rate serves as the Annapolis tax rate differential.

Results. Table 7-1 displays a table from the FY2013 Approved Budget for Anne Arundel County to show the results of the tax differential on a municipal homeowner's county taxes. The tax rates and yield shown below only reflect County property taxes; they do not include City of Annapolis property taxes used to fund the shared services within the City.

Table 7-1: Effect of Anne Arundel Tax Differential for the City of Annapolis

Item	Outside Annapolis	Within Annapolis	Tax Differential
FY12 Property Tax Yield Per Penny	$5,908,000	$558,500	
FY12 County Tax Rates			
Real Property Tax Rate	0.910	0.543	0.367
Personal Property Tax Rate	2.275	1.357	0.918
FY12 Average County Property Tax Bill for Homeowner Occupied Property	$2,326	$1,489	

Source: Anne Arundel County Approved Budget FY2013, p. 55.

Other Observations. Anne Arundel's legislative structure eliminates the issue of concurrent authority that creates many of the parallel services and double taxation issues a MTD program must address. Similar to Montgomery County's special area tax districts, creating exclusive authority for City services results in a more straightforward process for the County to determine the City's tax differential.

Since the County disaggregates its own expenditures into countywide and non-city services, it skips the question of how to determine whether shared services exist and whether these shared services are substitutes or supplements. This approach also works because the City of Annapolis functions as a full service city that has sole responsibility for deciding, funding and providing all shared services within its boundaries.

B. Frederick County

Frederick County's 12 municipalities have 93,897 residents that account for 40% of the County's population. The City of Frederick is the state's most populous city with 65,239 residents. The County's tax duplication program provides a tax differential and a tax rebate that reimburses its 12 municipalities for four services: roads, police, parks, and planning and zoning.

Background. Frederick County's tax rebate program dates to July 1981 when County and municipal officials established a study committee to determine what county and municipal services were duplicative and if inequities existed. The County's reimbursement formulas and the number of service areas that it reimburses for have been in place since then.

Frederick County's program is not codified in law or regulation. Staff responsible for administering the program rely on in-house spreadsheets and institutionalized department procedures.

In 2011, the County and municipalities formed a Tax Equity Work Group and charged it with conducting research about tax equity programs and reviewing the current program. A result of the 2011 Tax Equity Work Group is that Frederick County offers each of its 12 municipalities the option of choosing a tax differential or a tax rebate.

Determining duplicative services eligible for reimbursement. The 1981 study that initiated Frederick County's program defined areas of service duplication as:

> Those service areas of the Frederick County Government funded in whole or in part by general fund revenues which are not provided or extended to all municipal residents and the same or similar type services are provided to municipal residents by two or more municipal governments which fund said services in whole or in part with municipal property tax revenues.[4]

The Study Committee developed an inventory of county and municipal services based on an analysis of published financial reports and performed a detailed expenditure analysis that categorized both county and municipal government expenditures by function and activity. Service duplication existed if two or more municipal governments incurred expenditures for the same or similar type of activity.

This review identified four service areas for reimbursement: 1) Highway/Street Maintenance; 2) Police Services; 3) Bulk Waste Collection; and 4) Parks and Recreation Services. Since this exercise was completed, the list was revised to add planning and zoning services and drop bulk waste collection. The reimbursements are for operating expenses only; they do not include capital program costs or debt service**.**

Reimbursement formulas. The 1981 study explains the purpose of the County's reimbursement methodology as follows:

> The purpose of the formulas is to return tax dollars collected by the county from municipal residents for services which are not provided to those residents by the county. At the same time, the tax equalization formulas contain a built-in protection for non-municipal taxpayers through a mechanism called a "CAP". The "CAP" limits the amount of equalization to the estimated municipal contribution in the duplicated service area. Through the use of the equalization formulas and the "CAP", the county attempts to insure that equalization does not exceed the municipal contribution.[5]

Frederick County Budget staff follow a three-step process for each of the four service areas to establish the Net County Expenditure amounts that are distributed to municipalities. (The net expenditures are for direct expenses only; they do not account for overhead costs.)

The expenditure data used in the reimbursement formulas creates a two year lag between a municipality's expenditures and their subsequent reimbursement. For example, county staff used data from the County's FY11 CAFR and expense data submitted by municipalities to determine the FY14 budget for municipal reimbursements.

- **Step 1** calculates a "Net County Expenditure" value by using County expenditure data for each program area and subtracting earmarked revenues (if any) for that program area, e.g., state highway

[4] County-City Tax Equity in Frederick County: 1980-1981, p.2.
[5] County-City Tax Equity in Frederick County: 1980-1981, p.4.

user revenues or police aid. This is divided by the basis of distribution (population, acreage, mileage) to calculate an amount to be distributed per the formula.

- **Step 2** calculates the CAP factor referenced above based on County and municipal wealth data, e.g., net income taxes and assessable base, plus other taxes and grant revenues. First, these county revenues are categorized based on their tax base, e.g., income, assessable base, population and other. Next, the municipal contributions for each of these revenue categories are determined to create a municipal share for each category. These shares are applied to the relevant County totals and added together to determine the total municipal contribution. The CAP factor is then calculated by dividing the total municipal contribution into the County total. This percentage is multiplied by the Net County Expenditure (from Step 1) to determine the amount to be distributed per the CAP formula.

- **Step 3** compares the two results for Net County Expenditure from Step 1 and Step 2 and selects the lower Net County Expenditure result as the Total (or maximum) Amount to be Distributed for tax equity purposes.

The distribution formulas for each of the four service areas are based on unit costs. For example,

- The highway formula divides the Net County Expenditure for Highways by the number of County miles to determine a per mile cost, and reimbursements to municipalities are based on each municipality's number of highway miles;

- Police and planning reimbursements are calculated on a per capita basis, and

- The parks reimbursement distributes a fixed dollar amount on a per capita basis and the remaining amount on a per acre basis.

The determination of the parks reimbursement is for active public parks only. It does not include recreation programs and staff makes adjustments to subtract expenses associated with other maintenance to isolate public park expenditures.

The determination of the police and planning reimbursement imposes an additional limit that prevents a County reimbursement from exceeding the actual municipal expenditure. Any "excess" reimbursement funds created by this limit are re-distributed among municipalities that still have a shortfall between their expenditures and the County's reimbursement amount.

Results. The total rebate for each municipality is the sum of the calculations across the four service areas. Table 7-2 displays the FY13 distributions by service area and municipality.

Table 7-2: Frederick County Tax Duplication Payments, FY13

Municipality	Highways	Police	Planning/ Zoning	Parks	Total
Brunswick	$208,569	$470,623	$41,820	$40,262	**$761,274**
Burkittsville	$22,051	--	--	$786	**$22,837**
Emmittsburg	$108,004	$223,027	$19,818	$24,494	**$375,343**
Frederick	$1,527,556	$5,214,028	$463,315	$422,072	**$7,626,971**
Middletown	$167,560	$314,615	$28,151	$51,373	**$561,699**
Mt. Airy	$140,010	$205,392	$3,498	$41,476	**$390,376**
Myersville	$49,491	$99,476	$11,437	$13,798	**$174,202**
New Market	$21,685	$11,950	$582	$20,488	**$54,705**
Rosemont	--	--	--	$2,458	**$2,458**
Thurmont	$222,504	$489,010	$43,453	$41,147	**$796,114**
Walkersville	$192,630	$389,829	$41,157	$61,394	**$685,010**
Woodsboro	$59,894	--	--	$23,025	**$82,919**
Total	**$2,719,954**	**$7,417,950**	**$653,231**	**$742,773**	**$11,533,908**

Source: Frederick County Government

As noted above, as a result of the 2011 Tax Equity Work Group each municipality has the option of choosing a tax differential or a tax rebate. Staff reports that to date, two municipalities, the City of Frederick and Myersville, have opted for the tax differential.

Additional Observations. Staff report that use of the formula was suspended in FY10 when County tax revenues started to decline; and, as a result, distributions were frozen at the 2009 amounts for the next three years, FY10-FY12. When use of the formula was reinstated in FY13, the increase in reimbursement amounts reflected increases in County and municipal expenditures that occurred in those three years and the decrease in highway user revenues. Table 7-3 compares FY13 and FY12 reimbursements.

Table 7-3: Frederick County Change in Tax Duplication Payments, FY12-FY13

Municipality	FY12	FY13	Change	
			$'s	%
Brunswick	$491,888	$761,274	$269,386	55%
Burkittsville	$1,081	$22,837	$21,756	2013%
Emmittsburg	$238,044	$375,343	$137,299	58%
Frederick	$5,016,903	$7,626,971	$2,610,068	52%
Middletown	$296,884	$561,699	$264,815	89%
Mt. Airy	$244,901	$390,376	$145,475	59%
Myersville	$107,807	$174,202	$66,395	62%
New Market	$7,998	$54,705	$46,707	584%
Rosemont	$8,661	$2,458	-$6,203	-72%
Thurmont	$524,239	$796,114	$271,875	52%
Walkersville	$438,520	$685,010	$246,490	56%
Woodsboro	$25,155	$82,919	$57,764	230%
Total	**$7,402,081**	**$11,533,908**	**$4,131,827**	**56%**

Source: OLO and Frederick County Government.

Three unique features of the Frederick County program are:

- The CAP factor which establishes a limit to insure that equalization does not exceed the municipal contribution;
- The practice of calculating a total duplication amount and re-distributing "surplus" funds from municipalities where the payment has reimbursed them up to their actual spending limit to municipalities where a shortfall still exists; and
- The option for municipalities to choose a tax rebate or a tax differential.

C. Prince George's County

Prince George's County's 27 municipalities have 235,813 residents that account for 27% of the County's population. Eight of its municipalities are among the state's most populous and the County tax duplication program provides a tax differential and a tax rebate that reimburses these municipalities for public works, aging services, housing and community development, public safety communications, police patrol and support services, fire services, animal management, library service, and street lighting/traffic control.

Background. According to the MML Tax Set-off Handbook, the Prince George's County Municipal Association (PGCMA) spearheaded an effort in the early 1980's to create the Prince George's County program as it exists today. In 1982, the PGCMA established a subcommittee to develop a double taxation elimination strategy; invited speakers from Annapolis, including an accounting firm and IGS; and contracted with IGS to perform an analysis of several towns. Next, PGCMA began work to develop its own formula. In August, 1983, following passage of a new State law, the subcommittee met with county officials to resolve conflicts over its formula and then introduced legislation. Under the law approved in November 1983, Prince George's County adopted a $6.5M tax differential plan that roughly quadrupled previous rebates of $1.6M annually. The law resulted in lower tax rates on the combined city-county property tax bills and higher municipal tax rates.

Method for Determining Services Eligible for Reimbursement. Prince George's Municipal Tax Differential law (Sec. 10-183 (6)) defines eligible services or programs to mean:

> Those services or programs which are performed by a municipal corporation, and are wholly or partially funded from property tax revenues of the municipal corporation, instead of similar County services or programs when the similar County services or programs are wholly or partially funded from property tax revenues in the County's general fund and the services or programs are generally performed by the County in the unincorporated areas of the County.

Under this definition, the County establishes tax differentials for 13 types of activities across nine different service areas. It also reimburses for debt-related public works, police, fire, and education/library services. It does not reimburse for parks or recreation activities because these are separately funded through MNCPPC taxes, not the County General Fund.

The law specifies the Director of the Office of Management and Budget as program administrator. A Service Category Description Guide, developed by OMB, describes in detail the activities carried out by select County divisions (see Appendix R).

Each fall, as part of its budget responsibilities, OMB manages an application, review and certification process to determine the number and level of municipal services that qualify for reimbursement as substitute County services. By October 7 each year, OMB convenes a kickoff meeting with municipalities to brief them on OMB's working assumptions for the upcoming budget and distributes two forms along with the Services Category Guide.[6]

- Municipalities complete and electronically submit the **Municipal Tax Differential Request Form** to identify the degree to which municipal services are provided in lieu of County services based on the descriptions in the Guide;[7] and

- Municipalities also complete and submit the **Municipal Description of Services Form** to identify each service category for which they are requesting a tax differential. Municipal staff must include a detailed description of each service category and provide information such as "the type of service, the hours and days each service is provided, the number of positions providing each service, the amount and source of funds used to provide each service, and any other relevant information that will help the County determine eligibility. Municipal staff can also "propose other services that you believe could be eligible for a tax differential in future fiscal years."

Municipalities must complete the requests for services they want the County to certify by November 7th. OMB reviews these requests and notifies each municipality in writing by December 7th of its determination about the degree to which a municipality is providing one or more eligible services. Disagreements are subject to negotiations. Municipalities and OMB have until January 15th to reach agreement; otherwise the matter is submitted to a three-member arbitration panel consisting of a member selected by the involved municipality, a member selected by the County Executive, and a member selected jointly by the other two members. An arbitration panel must issue an advisory determination to the County Executive and County Council by February 15th.

Reimbursement Formula. OMB's determination of each municipality's reimbursement rate and the resulting tax differential consists of a four-step calculation. The data sources for these calculations are the approved County budget, the State Department of Assessments and Taxations, and information about eligible services provided by municipalities.

- **Step 1:** OMB first calculates the Net County Service or Program Costs supported by general fund real and personal property tax revenues. The law defines **Net Service Costs** as "the cost for a service or program as reflected in the County's latest adopted Current Expense Budget and support documents increased by the amount of indirect costs, including fringe benefits, applicable to that service or program and reduced by any fees, service charges, grants or other revenue directly attributable to that service or program." OMB aggregates approved budget costs, i.e., compensation, fringe benefits, operating expenses, capital outlay, recoveries, and adds indirect costs based on indirect cost rates developed for each department.

  Next, OMB sorts these costs based on whether they are in-house (operating) costs, or outside service costs. The service costs are adjusted to account for earmarked revenues and the resulting net service costs are sorted based on whether the costs are for countywide services or not. The non-countywide services are those activities in the Guide that are eligible for reimbursement.

[6] Under Sec. 10-186, the County must provide each municipality with a copy of the County's adopted Current Expense Budget and a standardized report form listing each potentially eligible service.
[7] Sec. 10-186 (c) provides that each municipality "shall identify, in ten percent (10%) increments, the degree to which it is providing eligible services to its citizens in lieu of the County providing those services."

- **Step 2:** The **Tax Rate Equivalent** divides each net county service cost by the County property (real and personal) assessable base. When these factors are transferred to the electronic application form, the level of service requested by the municipality multiplied by these factors generates the real and personal property tax rate differentials.

- **Step 3:** Next, OMB uses the tax rate differentials from Step 2 with the results from the previous two years to calculate a **three-year rolling average**. (Note: County legislation enacted in 1997 originally established a five-year rolling average beginning in FY99; the change to a three-year rolling average became effective in FY04.) The use of a rolling average is intended "to provide stability to municipal residents' County tax rates, smoothing what could otherwise be large rate changes that could be triggered by a reorganization of County services, economic fluctuations, changes in municipal service levels or other factors."[8]

- **Step 4:** The final step is to multiply the rolling average (from Step 3) by each municipality's estimated municipal tax base to calculate the **Estimated Tax Relief.**

Results. Table 7-4 (on the next page) shows the results of these calculations for FY14 for the eight largest cities in the County. The Exhibit shows that the structure of the Prince George's County program accommodates various service levels within a service area as well as a variety of services.

[8] Proposed FY14 Budget, Revenue, p. IV-18.

Table 7-4: FY14 Tax Differentials and Service Levels for the 8 Largest Cities in Prince George's County

Municipality	**Mt. Ranier**	**Bladensburg**	**New Carrollton**	**Hyattsville**	**Greenbelt**	**Laurel**	**College Park**	**Bowie**
Population:	8,155	9,223	12,248	17,718	23,281	23,346	30,587	55,232
FY14 Tax Differential Value (in $000s)	**$465**	**$509**	**$779**	**$2,461**	**$2,731**	**$4,537**	**$516**	**$8,256**
Service Activities								
Engineering	0%	30%	90%	100%	100%	100%	100%	100%
Debt	100%	0%	100%	100%	100%	100%	100%	100%
Aging	10%	20%	30%	50%	50%	100%	90%	90%
Housing/Com. Dev.	0%	50%	50%	50%	20%	100%	100%	10%
Police Dispatch	100%	100%	0%	100%	100%	100%	0%	0%
Fire Dispatch	0%	0%	0%	0%	0%	0%	0%	0%
Patrol Services	100%	100%	90%	100%	100%	100%	0%	100%
Support Services	90%	70%	90%	100%	100%	100%	0%	90%
Strategic Mngm't	100%	100%	100%	100%	100%	100%	0%	100%
Debt	100%	100%	100%	100%	100%	100%	0%	30%
Admin. Services	0%	0%	0%	0%	20%	30%	0%	0%
Emergency Ops.	0%	0%	0%	0%	0%	30%	0%	0%
Debt	0%	0%	0%	0%	100%	0%	0%	0%
Volunteer Fire	0%	0%	0%	0%	20%	100%	10%	10%
Animal Mgmt	0%	0%	70%	40%	50%	50%	80%	90%
Library	10%	0%	0%	0%	0%	0%	0%	0%
Debt	100%	0%	0%	0%	0%	0%	0%	0%
Street Lighting/ Traffic Control	100%	100%	100%	100%	100%	100%	100%	100%

Source: OLO and Office of Management and Budget, Prince George's County Government.

Additional Observations. The law establishes a Tax Differential Task Force comprised of one representative each from the Office of the County Executive, the County Council and the Office of Management and Budget, two representatives designated by the Prince George's County Municipal Association, and two members from unincorporated areas of the County appointed by the Chair of the County Council. The Task Force is charged with conducting an annual review of the program and rules, including methods to ensure adequate public awareness.

Each year, the County Executive's Proposed Budget reports how much the tax differential reduces overall County General Fund revenues. In the FY14 proposed budget, the differential generates a real property tax revenue reduction of $23.5 million. The budget also notes that FY14 marks the third year since the program started that the credit decreased year over year, and states this is due to the drop in assessable value within the municipalities and budget cuts to some County services due to fiscal constraints.

VIII. Findings

Municipal Tax Duplication (MTD) programs address authority, service and funding issues that are unique to Maryland; specifically, double taxation issues that arise when counties and municipalities deliver similar services. Montgomery County is one of seven counties that must provide a tax differential or a tax rebate to comply with State law.

Last year, at Government Operations Committee worksessions on the Final Report of the Municipal Revenue Sharing Task Force, several questions were raised about the County's current MTD program. The Council requested this OLO study to improve its understanding of MTD programs generally and learn about other jurisdictions' programs before it considers amendments to County law. The Council is particularly interested in strategies to limit subsidies between municipal and nonmunicipal taxypayers.

OLO's research found a body of policy and technical assistance literature exists but standardized program methodologies or formulas do not. Instead, as envisioned in State law, each jurisdiction has a customized approach that reflects its local circumstances. OLO identified strategies in the research literature as well as practices in other jurisdictions that could improve the County's program.

This chapter presents OLO's findings, organized into five sections:

- Legal Framework for Municipal Tax Duplication (MTD) Programs
- An Overview of MTD Terms, Concepts and Methodologies
- The Financial Context for Montgomery County's MTD Program
- Montgomery County's MTD Program
- Comparative Data and Information on MTD Programs

LEGAL FRAMEWORK FOR MUNICIPAL TAX DUPLICATION (MTD) PROGRAMS

Finding #1: State law establishes a general structure for Municipal Tax Duplication (MTD) programs to address "double taxation" of municipal property owners, although the specific design of an MTD program is left to each individual county.

The University of Maryland's Institute for Government Services (IGS) explains that the Maryland Constitution and Code give municipalities and counties "concurrent power … to levy taxes against real property" as well as home rule authority to decide the [discretionary] services they want to deliver.[1] Under the state's fiscal service structure, if a county and its municipalities both levy property taxes to fund an equivalent service, the potential exists for "double taxation" to occur.

More explicitly, the Maryland Municipal League (MML) defines double taxation as follows:

> Double taxation exists (1) when a county and a municipality within that county provide similar services financed with property tax revenues, and (2) when the county does not provide those services within municipal corporate limits because the city or town already does so. In such cases, municipal property owners pay taxes to both the municipal and county governments for a service (or services) they receive only from the municipality.[2]

[1] Shandy and Wilson, Double Taxation and Tax Differentials in Maryland, p. 2.
[2] MML, "Property Tax Double Taxation in Maryland." 2013. p. 1.

The outcome of an MTD program is a transfer of value from a county government to a municipality or its taxpayers that State law[3] defines as a "tax set-off." Section §6-305(a)(2) defines "tax setoff" to mean: (1) the difference between the general county property tax rate and the property tax rate that is set for assessments of property in a municipality; or (2) a payment to a municipality to aid the municipal corporation in funding services or programs that are similar to county services or programs.

In establishing the structure for MTD programs, State law creates two classes of counties: those that <u>must</u> provide a "tax set-off" and those that <u>may</u> provide a "tax set-off" to address double taxation. State law leaves two key components of an MTD program to local decision-makers: 1) the formula for determining the value of the tax set-off; and 2) the payment method used for reimbursement.

MTD formulas. MTD programs must develop a formula to determine the amount of a tax set-off. The Maryland Municipal League (MML) characterizes the choice of a formula as "the most important and most controversial part of the process." The MML advises that formulas be comprehensive and flexible; it cautions against formulas that are too complex or too elaborate. State law (§ 6-305d) requires that a county's MTD formula calculate a tax set-off value based on property tax contributions and that a county's determination of the tax set-off amount consider:

- The services and programs a municipality performs instead of similar county services; and
- The extent that the similar services and programs are funded by property tax revenues.

These provisions establish the basis of the tax set-off value as that part of the service costs attributable to property tax revenue, and a formula that uses this basis accurately resolves the fiscal inequities created by double taxation.

MTD payment method. State law allows a tax set-off to take the form of a tax differential or tax rebate. A tax differential lowers the county general property tax rate for municipal taxpayers. In theory, an MTD program that institutes a differential tax rate to address instances of double taxation maintains County service cost efficiency by limiting the flow of excess revenue to the County government for services it is not in fact providing. The research suggests that differentials assure that municipal taxpayers receive the full benefit of the lower rate, and that putting the lower rate on the tax bill helps create buy-in for the continuation of the program.

A tax rebate maintains the same county general property tax rate for municipal and nonmunicipal taxpayers. This method effectively captures the revenue collected from municipal taxpayers and transfers it to their municipal government in the form of a rebate payment. In theory, an MTD program that provides County reimbursement payments to municipal governments can result in a lower municipal property tax rate since the rebate can be used for services that otherwise would have required a higher municipal property tax rate. In practice, this outcome is difficult to measure.

The research indicates that municipal governments prefer tax duplication reimbursements because they have control over how the funds are spent, and there are advantages to a concentrated benefit versus distribution of a smaller, disbursed benefit to individual taxpayers.

[3] MD Tax-Property Code §§ 6-305, 306

Finding #2: Montgomery County's MTD Program is established in County Code. Under its current interpretation, County law provides for a more generous tax-setoff than that authorized in State law; and it provides for only a municipal tax rebate, not a tax differential.

Two MTD program design issues that State law delegates to the local governing body of a county are: (1) the method to determine the amount of the tax set-off; and, (2) the method of tax set-off payment.

Value of the tax set-off. Section 30A-3, *Determination of amount of reimbursement,* establishes Montgomery County's method for determining the amount of its tax set-off. It specifies that the value of the tax set-off must:

1) approximate the amount of municipal tax revenues required to fund the eligible services; and
2) be limited to the amount the county would expend to provide the eligible services.

Together, the current interpretation of these provisions (in place since 1996) justifies a formula that equates the tax set-off to the full value of the County's estimated service costs. Compared to State law, this interpretation authorizes a more generous tax set-off since the full service cost can exceed the cost share attributable to property tax revenues by 60% or more. In some cases, this approach may result in a tax set-off value that exceeds the amount of the fiscal inequity created by double taxation.

Payment Method. County law provides for only one of the two payment methods authorized in State law. While State law permits counties to authorize a tax differential or a tax rebate, County law only recognizes a municipal reimbursement.

In sum, the design of the County's MTD program authorized under the interpretation of County law in place since 1996 establishes a more circuitous and more expensive solution to double taxation that results in enhanced funding for municipal services. It contrasts with the permissive structure in State law which permits two other options for the County to resolve the issue of double taxation. Specifically,

- The County could resolve the issue of double taxation less expensively and more directly on behalf of the taxpayer by basing the value of the tax set-off on property tax contributions and setting lower general county property tax rates within municipal boundaries; or

- The County could resolve the issue of double taxation less expensively with a rebate payment to municipal governments that bases the value of the tax set-off payment on property tax contributions. The interpretation of County law and MTD program formulas in place between 1982 and 1996 authorized this less expensive municipal rebate payment.

AN OVERVIEW OF MTD TERMS, PRACTICES, AND METHODOLOGIES

Finding #3: In general, administering an MTD program consists of four primary steps that guide program outcomes.

A review of technical studies and county MTD program practices show four major tasks structure the administration of an MTD program.

- **Generate a list of shared services funded by property tax revenues levied by a county and one or more of its municipalities.**

A list of shared services with property tax expenditures is used to differentiate services that give rise to double taxation from the universe of local government services. Typically expenditures for direct program costs qualify for an MTD tax set-off. An MTD program must first differentiate "county-only services", state service mandates provided only by counties, and "shared services", discretionary services that either a county or a municipality can provide.

An MTD program generates a list of shared services by reviewing County and municipal financial data to identify those services that should be excluded from further consideration. A service must satisfy all of the following four pre-requisites to be listed as a shared service funded with County and municipal property tax revenues:

1) The County and one or more of its municipalities must both incur expenditures for the service;
2) The County and one or more of its municipalities must both levy a property tax to fund the service;
3) The service and tax boundaries for the County and municipal services must overlap; and
4) The County and municipal net service costs must each exceed their property tax revenues.

When these pre-requisites are applied to county and municipal financial service data, the following categories of services are excluded from further consideration of double taxation: county-only services (i.e., services such as K-12 education that are provided only by counties as a result of specific mandates and authorities within State law); services funded by non-property tax sources such as enterprise funds or program fees; services funded through special area tax districts; and services that are unique to a subarea of the county or unique to a municipality.

After these exclusions are applied, the remaining categories of services are those accounted for in a county or municipal general fund. Sometimes, non-program expenditures, such as general government activities and miscellaneous spending, will also be excluded from further consideration, leaving only expenditures for direct program costs.

- **Subdivide this list of shared services into two groups: those shared provider services that are reimbursable and those unique, sole provider services that are not reimbursable.**

After a comparative review of county and municipal financial data shows where spending for shared services exists, an MTD program subdivides this list into reimbursable and non-reimbursable services.

Reimbursable services are those designated for an MTD tax set-off because they are part of a countywide shared provider system. County designation as a reimbursable service recognizes that these services merit delivery through a shared provider system with a uniform cost structure.

Non-reimbursable services are unique services delivered by a sole provider. They are not eligible for reimbursement either because they are unique programs or because they are non-program services that exist only because the government itself exists.

If the list of reimbursable services includes similar services with partial or intermittent levels of municipal effort, IGS recommends the use of service rates to address these service differences. IGS advises that the basis for the service rate be the level or rate at which the municipality provides the service. Use of a service rate allows the county to recognize situations where a municipal service is equivalent to a county service, but the municipal level of effort differs.

- **Determine the net program costs of the shared provider reimbursable services using a consistent set of rules to account for the various cost factors and revenues.**

Different methodologies exist for calculating shared provider reimbursable service costs. Most formulas calculate net costs of service and make adjustments for various revenues. The assessable property tax base or unit factors, such as population or mileage, are commonly used to distribute the value of these costs to municipalities. IGS has developed two MTD methodologies for calculating tax differential and rebate amounts. Both methodologies follow the same approach; however, they use different data and they are designed to answer different questions.

The **Saved County Costs** approach uses county expenditure data to generate a reimbursement amount that estimates the county property taxes paid by municipal residents for shared services provided in nonmunicipal areas. The **Municipal Replacement Costs** approach estimates the amount of property tax revenue from nonmuncipal taxpayers that would be required to replace the current level of municipal expenditures.

The IGS methodology for determining costs of services consists of steps to calculate total county or municipal expenditures including factors that adjust for overhead and administrative costs. It also develops a schedule of revenues and subtracts non property tax revenues (both earmarked and general) to determine the property tax funding cost share.

- **Determine the basis for the rebate payment and calculate the tax differential or rebate.**

Different methodologies and different bases exist to calculate a tax differential or tax rebate amount and to determine how the total cost value is assigned to different municipalities.

IGS' calculation of tax differentials and rebate amounts uses municipal and nonmunicipal tax bases to determine the subsequent value or cost to each entity. IGS' technical assistance studies provide methodologies and formulas that calculate costs attributable to property tax funding as required in State law. IGS does not provide calculations for a full tax-supported rebate or differential; however, other programs have developed methodologies to use unit cost factors (e.g., population and road mileage) to determine the total costs to be distributed and then allocate these cost values among the municipalities.

FINANCIAL CONTEXT FOR MONTGOMERY COUNTY'S MTD PROGRAMS

Finding 4: **In 2011, combined County and municipal spending totaled $2.5 billion - $1.8 billion (72%) for county-only services and $691 million (28%) for shared services. Municipal shared services spending totaled $105.5 million. Estimated costs for reimbursable services accounted for 11% ($11.3 million) of this spending.**

The County and its municipalities file annual uniform financial reports with the State Department of Legislative Services. After DLS receives these reports, it publishes a Report of Local Government Finances Data each October. OLO used these 2011 State and County data to create a composite picture of County and municipal expenditures by service responsibility and provider system. The municipal data is cumulative for all the municipalities in Montgomery County. The profile uses County MTD formulas to develop County and municipal estimates for reimbursable and non-reimbursable services.

The State's grant of concurrent home rule authority to county and municipal governments allows either government to provide discretionary services with no requirement for coordination. Or, as IGS observes, "there is no rational guide for determining which services municipalities should perform and which services counties should perform."

This permissive structure creates parallel spending for similar services as well as the State mandate for an MTD program. Since State law mandates a county reimbursement for duplicative services spending, it is possible to differentiate shared provider services from those services county and municipalities deliver independently.

Table 8-1 shows 2011 expenditure data for county-only services and shared services from the County General Fund; corresponding expenditures from the Municipal Operation Funds; and estimates for reimbursable and non-reimbursable costs based on County MTD data.[4]

Combined, municipalities spent $105.5 million on shared services in 2011. Of that total, $11.2 million (11%) represents service costs reimbursed under the MTD program and $94.3 million (89%) represents non-reimbursable services. By comparison, the County spent $198.4 million (34%) for reimbursable services and $387.3 million (66%) for non-reimbursable services. Both entities saw larger spending shares for non-reimbursable (sole provider) services than reimbursable (shared provider) services.

Table 8-1: County General Fund and Municipal Expenditures by Service Responsibility, 2011

Service Type	County General Fund Expenditures	Municipal Operation Fund Expenditures	Total Expenditures
County Only Services	$1.8 billion	--	$1.8 billion
Shared Services			
Reimbursable	$198.4 million	$11.3 million	$210.0 million
Non-Reimbursable	$387.3 million	$94.1 million	$481.4 million
Subtotal Shared	*$585.7 million*	*$105.5 million*	*$691.2 million*
Total	**$2.4 billion**	**$105.5 million**	**$2.5 billion**

Source: Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

[4] Note that the data excludes expenditures from County and municipal enterprise funds, expenditures from debt service and capital funds, and the County's special area district funds since these services are not a source of county general property tax duplication (i.e, sewer/solid waste, parks and recreation, and debt service). The data also excludes municipal operation fund expenditures for services provided at the County level through enterprise and/or special district funds.)

Finding 5: Due to budget constraints, the County has not funded the MTD program at the rebate formula amount since FY09. In FY13, the approved MTD payment of $7.8 million was $3.8 million less than the rebate formula amount.

Recent County budget constraints have limited MTD payments. Due to budget constraints, the County has not funded the MTD program at the approved formula amount since FY09. Table 8-2 shows the differences between the approved formula and the actual payments from FY07 through FY13. The funding gap peaked at $14.9 million in FY12. In FY13, the County provided $7.8 million in MTD payments, or $3.8 million less than the formula amount of $11.6 million.

Table 8-2: MTD Rebate Formula Results and Approved Payments, FY07 to FY13 (000s)

Results	FY07	FY08	FY09	FY10	FY11	FY12	FY13
Rebate Formula	$7,509	$6,879	$8,705		$9,996	$21,264	$11,582
Actual Payment	$7,459	$7,488	$7,488	$7,488	$6,365	$6,375	$7,777
Difference	($50)	$609	($1,217)	$7,488	($3,631)	($14,889)	($3,805)

Source: OMB. In FY10, the County and municipalities agreed to keep the same payment due to the ongoing work of the 2007 Task Force. As a result, no formula was calculated.

Finding 6: Municipalities in Montgomery County spend an average of $180 more per capita on shared services than the County Government. This difference is attributable to discretionary spending on non-reimbursable shared services.

Both county-only services and reimbursable shared services are delivered countywide with a uniform cost structure. In contrast, services that the County and its municipalities provide independently (i.e., non-reimbursable shared services) have different service areas and different spending levels.

Table 8-3 displays County and municipal per capita spending for non-reimbursable shared services. The data show that municipalities spent approximately $180 more per capita than the County on non-reimbursable shared services in 2011. Since municipal residents receive a combined benefit from both County and municipal spending on non-reimbursable services, this effectively increases a municipal residents' per capita spending and widens the per capita spending gap between municipal and nonmunicipal residents.

Table 8-3: 2011 Per Capita Spending for Non-Reimbursable Shared Services

	County	Municipal
Non-Reimbursable Shared Services		
General Government	$203	$255
Police	$50	$133
Other Public Safety	$27	$45
Transportation	$11	$52
Community Dev and Public Housing	$4	$36
Economic Development	$6	$3
Miscellaneous	$96	$56
Total Shared Services	**$397**	**$580**

Source: Montgomery County Uniform Financial Report, DLS Local Government Finances Handbook

MONTGOMERY COUNTY'S MTD PROGRAM

Finding #7: Four specific issues with the County's conditions for determining reimbursable services create confusion about the County's overall MTD reimbursement policy.

In Montgomery County, three factors – criteria in County law, review and recommendations from periodic task forces and subsequent Council resolutions – govern how the County makes its determinations of reimbursable services. The four criteria used to identify reimbursable services are found in Section 30A-2, *Qualification of municipal public services for county reimbursement*. It states: "Municipal public services shall qualify for county reimbursement if the following conditions are met:

(1) the municipality provides the service to its residents and taxpayers;
(2) the services would be provided by the county if it were not provided by the municipality;
(3) the service is not actually provided by the county within the municipality; and
(4) the comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality."

A review of the identified reimbursable services in the 1978, 1982 and 1996 Task Force Reports found ongoing references to reimbursements based on "county funding from property tax expenditures" and an ebb and flow of eligibility for reimbursement for different types of services. These patterns show a lack of clarity has emerged over the years about the interpretation of the four conditions in Section 30A-2. OLO indentified four specific issues with the County law that create confusion about overall reimbursement policy:

- **Whether or not the County would provide a service if a municipality does not.** The current criteria allow the County to determine that it would not provide a service if it were not provided by a municipality and thus not reimburse for that service. This stands in contrast to IGS' methodology and programs that use County and municipal budget or expenditure data to determine the existence of reimbursable services.

- **Precluding County/municipal service partnerships.** The requirement that a service is not actually provided by the County within the municipality precludes County/municipal service partnerships. Absent a conceptual approach that recognizes service rates or partial service levels, current County law provides no recognition of municipal expenditure contributions that are not full service substitutes.

- **Tax revenues vs. property tax expenditures.** The State law, the original Gleason report, and all three Task Force reports contain numerous, explicit references to reimbursements based on County property tax expenditures. The language in the reimbursement conditions, however, simply refers to tax revenues and does not distinguish between property tax and other tax revenues. This disconnect creates a fundamental ambiguity about the law's intent and purpose.

- **Application of the MTD law to special district tax revenues.** The reimbursement conditions do not explicitly address whether the law intends for the County to issue rebates for programs funded with special area property tax revenues. While neither County nor municipal boundaries can be redrawn to address the duplicative taxation issues that arise in the general fund, a special area tax district can remedy this issue.

Finding #8: The County's current list of reimbursable services includes different determinations on reimbursement eligibility for seemingly similar services.

Several disconnects exist between the County's current list of reimbursable services, its service funding structures, its payments and municipal services. Recommended practices for the administration of an MTD program apply a set of filters to County and municipal financial data in order to methodically exclude those services that do not give rise to double taxation issues and include those that do. The County's current list of reimbursable services does not reflect a methodical approach. For example, the current list of reimbursable services:

- **Includes reimbursements for park maintenance services, which are not funded through the General Fund.** At the County level, these services are provided and funded through the Metropolitan District, a bi-county special tax district administered by the Maryland National Capital Park and Planning Commission and the Montgomery County Parks Department. Designating these services for an MTD rebate uses taxpayer dollars from the General Fund to resolve a tax equity issue that properly belongs to the Metropolitan District Fund (and that could be resolved through redrawn boundaries).

- **Includes land use hearings provided by one municipality but not others.** County Board of Appeals and administrative zoning hearings are provided by two legislative offices that are accounted for in the General Fund. The current list of reimbursable services issues MTD rebates to the Town of Chevy Chase since it provides its own hearing services; but does not issue rebates to other municipalities, such as Rockville and Gaithersburg, that also provide these services.

- **Excludes Takoma Park library services, which instead receive a rebate under a different County law.** Section 2-35 of the County Code authorizes a property tax rebate payment to the City of Takoma Park outside of the MTD program. Additionally, the method for determining the library rebate amount is comparable to those used by IGS, Anne Arundel and Prince George's counties to determine rebates attributable to the share of a service funded by property tax revenues.

- **Includes a rebate for Takoma Park police services, in addition to a separate rebate provided under a different County law.** Takoma Park receives two rebates for police services, one through the MTD program and another authorized under Section 35-5 of the County Code. The Code establishes pre-set tax rate values for determining that rebate amount (4.8 cents for real property and 12 cents for personal property).

- **Excludes reimbursement for Chevy Chase Village, Gaithersburg and Rockville police services**. The 1996 Task Force Report and subsequent Council Resolution disqualified police patrol services provided by Chevy Chase Village, Gaithersburg and Rockville based on a logic that misapplied the definition of the reimbursement amount as a criteria for determining a reimbursable service. Before this change, these services had been eligible for a rebate since 1982.

Finding #9: The County's use of different MTD cost of service formulas fails to establish an objective basis for the MTD program's administrative determination of tax equity. The current formulas are outdated, lack uniformity, and their results are ignored.

The County's MTD program depends on a collection of formulas that OMB uses to calculate both its costs of service and its subsequent rebate payments. Each of the task forces established in 1978, 1982 and 1996 was charged with reviewing the program's formulas.

Notwithstanding the efforts of these groups, the MTD program's formulas, including gaps between the formula results and the approved payments, have been an ongoing and persistent problem. In 1984, MML reported that "the distribution formula was complicated, controversial and occasionally not fully funded." More recently history shows ongoing mismatches between the MTD formula results and the approved payments. (See Finding 5.)

A review of the formulas that the MTD program uses to calculate costs of services shows the County currently uses three distinct approaches to determine costs of service. Specifically:

- One service type (park maintenance) adjusts prior year payments for inflation;
- Six service types (roads, planning and zoning, animal control, human rights, senior transportation and groceries) use existing or compiled program budget data to develop unit costs; and
- Two service types (Takoma Park crossing guards and police) use personnel costs and/or workload factors.

If Takoma Park police and library rebates are added to the mix, the distinct number of approaches expands to five.

These distinct approaches reflect an ad hoc assortment of events and agreements developed over time. For example, the parks formula uses an inflation factor because the accounting system that supported the parks formula was discontinued in 1988 and the Takoma Park police formula reflects a 2002 memorandum of understanding between the County and the City.

The value of using a consistent set of formulas to make administrative determinations is to bring uniformity, objectivity and credibility to both the process and its results. The County's ad hoc approach stands in contrast to IGS' recommended methodology or programs in other counties where a consistent set of factors is uniformly applied to each service area to determine either their tax differentials or their rebate payments.

Finding #10: The administrative structure for the County's MTD program lacks a set of clear decision documents, a periodic review cycle and a mechanism for resolving errors.

Ideally, the administrative structure for an MTD program has a set of clear decision documents, a uniform set of criteria and formulas, an established program development and review cycle and a mechanism for addressing and resolving omissions and errors.

The County's MTD program currently lacks clarity and a functional administrative structure. The contradictions that exist between the law and the program's governing documents leave the program's purpose open to question. The use of intermittent Task Force reports and Council Resolutions produces one-time, all or nothing decisions that remain in effect for an indefinite period of time. And, the lack of a regular review cycle or an appeal process, means no mechanism exists to address and resolve issues that arise due to municipal changes in service, mistakes or other external changes.

Finding #11: Municipal stakeholders perceive that, despite its good intentions, the MTD program in its current form does not adequately address persistent tax differential issues and that it has an inherently political element.

Feedback from a focus group and interviews with municipal representatives identified several issues with the current administration of the MTD program. Representatives emphasized that despite their concerns about the MTD program they value their good working relationships with County departments generally.

Participants shared specific concerns about the County's reimbursement payments and its formulas. Concerns with the payments were that they did not meet municipal expenses. Participants suggested this is due in part to outdated reimbursement formulas and a shift of administrative responsibilities from the County to the municipalities.

Other participants suggested that the cost formulas are not realistic. There were widely shared concerns that no consistent methodology exists for either revising or updating the formulas and observations that the formulas are recalculated infrequently. One participant reported that although they initiated action to update a formula themselves the issue was still unresolved.

Suggestions from municipal representatives for improvement include:

- more regular identification of the elements of each formula as well has how recently they are updated;
- allowing reimbursement payments for "non-recurring costs;"
- establishing an "audit process" for the formulas; and
- releasing relevant information to municipalities ahead of when it is released in the budget so municipalities would have a chance to locate and correct potential errors.

Finding 12: In addition to MTD programs, Maryland's shared revenue structure also requires municipalities receive a share of county income taxes. Over the years, some studies and/or organizations have expressed concern over the combined value of these revenue sources relative to actual municipal expenditures.

Both the state mandate for distributing a share of county income taxes to municipalities and the state mandate to implement tax differentials or issue tax rebates are intended to ensure municipalities have access to county revenues to fund their discretionary services. The state envisioned these revenues could relieve pressure on local municipal property tax rates and, in the case of the property tax differential, ensure fairness for municipal taxpayers.

Both state mandates transfer county general fund dollars to municipal households to support municipal spending priorities. The first transfers a share of county income tax revenue and the second transfers a share of county property tax revenue.

Unlike the countywide income tax offset credit that the Council sets as part of its budget process, these two programs are uniquely available to municipal governments (in the case of the shared county income tax or a property tax rebate) or municipal property owners (in the case of a property tax differential.)

Since municipal spending can only support discretionary services, one effect of these programs is to reduce county general fund resources available to fund state imposed county-only services. A key difference between the two programs is that a County Council can control the amount of the property tax rebate through the formulas it approves to administer the MTD program; it cannot control the shared county income tax revenue since this is based on the income earnings of municipal residents.

Historically, the combined impact of an MTD program and the shared county income tax program has come up as part of several reviews and analyses. For example, in 1970 the Maryland Legislative Council Committee on Taxation and Fiscal Matters published a study that recommended against a statewide MTD program, stating: "the existing allocation of State Shared taxes among counties and municipal corporations and the existing requirements for the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided."[5]

More recently, IGS' also discusses the combined influences of municipal home rule, the state shared revenue structure and MTD programs. It states:

> [T]he amount of state-shared revenue generated by Maryland's tax structure and allocated to counties and municipalities has a substantial impact upon the justification for, and the size of, tax differentials. If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded.[6]

Finding #13: When a municipality's share of county income tax exceeds its shared provider costs, an MTD tax set-off does not resolve a fiscal inequity between municipal and nonmunicipal taxpayers due to double taxation; instead, in those instances, the MTD payment creates a further disparity.

The stated purpose of many MTD programs is to resolve an inequity borne by municipal taxpayers created by double (property) taxation. However, when the effects of the shared county income tax are included, the fiscal inequities attributable to double property taxation may be lessoned or disappear altogether if the value of the shared county income tax meets or exceeds municipal shared service expenditures.

[5] County Property Tax Rate Differential for Municipal Residents, p. 330.
[6] Shandy and Wilson, p. 10.

To address this IGS advises "It is possible that no tax differential could be awarded to small municipalities that provide very few services. In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset the state shared revenue that it receives."[7]

In FY11, 20 of the 22 municipalities in Montgomery County received a share of county income tax revenue that exceeded their total reimbursable shared service costs. Under a strict application of the IGS methodology described above, i.e., a comparison of shared county income tax to costs attributable to property tax revenue, no municipalities would have qualified for a MTD reimbursement in FY11. Under a less strict approach that aligns with the County's current administration of the MTD program, i.e., a comparison of shared county income tax to total reimbursable costs, only two municipalities would have qualified for a MTD reimbursement in FY11.

COMPARATIVE DATA AND INFORMATION ON MTD PROGRAMS

Finding #14: Statewide, seven counties provide tax differentials, seven provide rebates, and four provide a combination of both.

The exhibit below shows the type of MTD program in 18 Maryland counties. The counties without an MTD program either do not have municipalities (Howard and Baltimore) or have opted not to implement a program (Queen Anne's, Wicomico, and Worcester).

Exhibit 7: Maryland Counties with Municipal Tax Duplication Programs

Mandatory	Program Type*		Voluntary	Program Type*	
	Differential	Rebate		Differential	Rebate
Allegany	✓		Calvert	✓	
Anne Arundel	✓		Caroline	✓	
Frederick		✓	Carroll		✓
Garrett	✓	✓	Cecil		✓
Harford	✓	✓	Charles	✓	
Montgomery		✓	Dorchester	✓	✓
Prince George's	✓	✓	Kent		✓
			Somerset		✓
			St. Mary's		✓
			Talbot	✓	
			Washington	✓	

*As of 2012. Source: OLO and DLS

[7] Shandy and Wilson, p. 2.

Finding #15: A high degree of variation exists among MTD programs across the state in terms of total reimbursement, per capita value of the tax set-off, and types of services qualifying for reimbursement.

MTD payment data from annual tax set-off reports published by the Department of Legislative Services as well as MTD program data from the State's 25 largest municipalities shows:

- In the seven counties with mandatory programs, the counties with the highest tax set-off values in FY12 were Prince George's ($33.1 million), Anne Arundel ($26.2 million), Frederick ($7.4 million) and Montgomery ($6.3 million).

- On a per capita basis, Annapolis receives the largest tax set-off (valued at $674 per person) while College Park ($14 per person) and Gaithersburg ($17 per person) receive the smallest tax set-offs.

- The most heavily represented service areas were police (20 municipalities), public works (12 municipalities) and code enforcement (10 municipalities).

- Among the mandatory programs, eight Prince George's municipalities provided the highest number of services (ranging from 7 to 9 services), followed by two Allegany County municipalities (6 services), Annapolis (5 services), and three Montgomery County municipalities (3 to 4 services).

- The cities of Frederick, Rockville, Gaithersburg and Bowie are the four largest municipalities in the state; however, Bowie's per capita tax set-off rate ($176 per person) is roughly six times that of Rockville's ($30 per person) and ten times that of Gaithersburg ($17 per person). The City of Frederick's per capita reimbursement is $76.

Finding 16: A detailed review of MTD programs in Anne Arundel, Frederick, and Prince George's counties reveals several notable program features, many of which serve to enhance the clarity and simplicity of the programs.

Chapter VII includes an in-depth review and description of MTD programs in Anne Arundel, Frederick, and Prince George's counties. Two general comparative observations are listed below, followed by a summary of notable features of each county's program.

- Anne Arundel and Prince George's counties use a tax differential payment method; Frederick County gives its municipalities the option to choose their payment method.

- Anne Arundel and Prince George's counties base their tax differentials on net costs attributable to property tax revenues; Frederick County uses formulas that calculate full service costs capped by a factor that reflects municipal revenue contributions.

Anne Arundel County. A provision in state law, unique to Anne Arundel County, prohibits imposing a county property tax on "property of a resident of a municipal corporation for any service that the municipal corporation provides for the resident." [8] While the only municipality in the County is the City of Annapolis, this provision effectively creates distinct lines of authority, distinct service area boundaries and simplifies the determination of reimbursable services. This structure allows Anne Arundel to convert nonmunicipal service costs into a tax differential since those costs directly reflects County property tax dollars spent for services that are not provided to Annapolis' residents.

Frederick County. Frederick County's program is most similar to Montgomery County's, but also has three unique structural features:

- A two-pronged formula for calculating total reimbursement costs, using the lower of the two results as the basis for the distribution. The formula has an approach for determining net service costs and unit cost factors that is consistent across all service areas.

- A "CAP factor" that sets a ceiling on the total cost calculation for each service area, and is designed to prevent over-reimbursement by nonmunicipal taxpayers.

- The redistribution of "excess" rebate payments. When the rebate payment allocated to a particular municipality under the formula exceeds its actual expenditures for that reimbursable service, the excess payment is redistributed to other municipalities where the rebate amount was lower than expenditures.

Prince George's County. Prince George's County has several program features (developed in consultation with IGS), including application forms, an electronic application process, a kickoff meeting, and a written guide of services to advise the municipalities on the service categories and activities that are eligible for reimbursement, that allow for consistency in the program's structure. Other features from Prince George's County include: the use of service rate factors for partial municipal service contributions; the practice of soliciting municipal expressions of interests about services that merit reimbursement; and the use of a rolling average to bring stability to the municipal payment stream. The rolling average is intended "to provide stability to municipal residents' County tax rates, smoothing what could otherwise be large rate changes that could be triggered by a reorganization of County services, economic fluctuations, changes in municipal service levels or other factors."[9]

[8] MD Tax Property Article § 6-307
[9] Proposed FY14 Budget, Revenue, p. IV-18.

IX. Recommendations

In accordance with State and County law, Montgomery County provides a municipal tax duplication (MTD) program to address potential double taxation of municipal residents who pay property taxes to both the County and a municipality for certain similar services. The Council requested this study to gain a better understanding of MTD programs, with a particular interest in strategies that can increase the fairness and transparency of Montgomery County's program.

As detailed in the previous chapter, OLO found that the County's MTD program has a complicated law, an inconsistent set of reimbursable services, an assortment of ad hoc formulas and methodologies, and rebate results that are not always followed. As a result, the Council has an opportunity to "reset" the MTD program in a manner that will ensure an effective, evidence-based, fair, and transparent structure going forward. This chapter outlines OLO's recommendations for the Council's consideration.

Recommendation #1: Implement nine revisions to strengthen the fairness, uniformity and sustainability of the County's MTD Program.

This recommendation proposes nine revisions to the MTD Program's current list of reimbursable services, its cost of services methodology and its payment methods. OLO recommends that the Council review and discuss each revision, and make a formal determination on whether it will proceed with each by amending the County Code that authorizes the MTD program and/or updating the Council Resolution that establishes the County's MTD policy.

Since the intent of MTD programs is to establish and administer local tax policy, final decisions about the methodologies that are used to determine reimbursable services, the formulas that determine tax set-off values, and who administers them belong to the Council as the local governing body.

In brief, OLO recommends:

- Re-establishing property tax revenue as the basis for MTD payments and providing the option for property tax differentials;
- Instituting a uniform approach to cost of service determinations that relies on unit cost factors and readily available data;
- Recognizing partial service levels of effort and re-instating police patrol services for Chevy Chase Village, Gaithersburg and Rockville if they agree to be first responders; and,
- Other changes, e.g., to Takoma Park rebates, park maintenance and land use hearings, to better align the MTD program with the County's fiscal service structure.

Together, these revisions are intended to simplify and standardize the County's MTD formulas; enhance the consistency of reimbursement across municipalities; improve the transparency and fairness of the MTD program for municipal participants through a consistent set of formulas based on readily available data; and address the issue of disproportionate nonmunicipal taxpayer subsidies.

These revisions will change both the total cost of the MTD program and each jurisdiction's rebate amount. A set of tables at the end of this chapter provide estimates to show the MTD program costs and payments with these proposed revisions and how these new payments compare to those in FY13.

Revision A: **Revise the MTD payment formula to reimburse on a property tax cost basis instead of a full service cost basis to better align the County's MTD program with State law and the State's shared revenue structure.**

State law requires that Montgomery County reimburse eligible municipalities for inequities caused by duplicative property tax payments for shared services. However, since 1996 County policy has used a rebate formula that bases the payment amount on the County's full service costs. Under this formula, the County's payment amount is two to five times higher than it would be if the formula based the payment amount on the share of service costs attributable to property tax revenue.

Also, State law requires MTD rebate payments (for property tax duplication) within the context of the State's shared revenue structure that also redirects a County income tax payment to each municipality. As a result, a municipality can receive a County MTD rebate and a County income tax payment that exceeds the costs of its reimbursable services.

When the combined County revenue from the income tax payment and MTD rebate exceed a municipality's reimbursable shared service costs, the net effect is a nonmunicipal taxpayer subsidy for municipal services. This nonmunicipal tax duplication issue arises when nonmunicipal taxpayers are charged twice to reimburse municipal taxpayers for municipal services they cannot access.

IGS recommends that the local design of an MTD program first examine the relationship between the county income tax revenues a municipality receives and its shared service expenditure obligations to determine if a MTD payment is warranted.[1] In FY11, 20 of 22 Montgomery County municipalities had shared county income tax revenue that exceeded the full cost of their municipal reimbursable services, thus creating an "excess credit" situation even before the MTD payment was taken into account.

To limit the unintended effects of the shared revenue structure on nonmunicipal taxpayers and to more closely align the County's program with State requirements, OLO recommends that the Council support revising the MTD formulas to reimburse on a property tax basis instead of a full cost basis.

Revision B: **Give municipalities and their taxpayers an option to make a one-time election for either a County property tax rate differential or a property tax share municipal rebate payment.**

While State law permits tax set-offs to be either a lower County property tax rate (a tax differential) or a municipal rebate payment, current County law provides for a rebate payment only.

MTD research suggests that municipal governments usually prefer tax rebate payments because they have control over how the funds are spent. Also, some perceive that the advantages of a concentrated rebate payment outweigh the smaller tax differentials.

The Maryland Municipal League states that an advantage of a tax differential is that it gives each municipal taxpayer a personal stake in its continuance. From a governance perspective, a tax differential is the only method that returns the "saved" County revenue directly to the taxpayer.

[1] As IGS advises "It is possible that no tax differential could be awarded to small municipalities that provide very few services. In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset the state shared revenue that it receives." Shandy and Wilson, p. 2.

A key issue OLO heard from its focus group of municipal representatives was the unpredictability of the County's rebate payment. These concerns are validated by the County's recent history, which funded rebate payments at a level almost $4 million below the approved formula amount. This experience suggests that the stated advantage of a municipal tax rebate giving municipalities more control gave way during the economic downturn. Given this recent experience, County and municipal officials may want to discuss whether a tax differential could limit the unpredictability of MTD payments during an economic downturn or alternatively improve the sustainability of the MTD program.

OLO recommends that the Council allow each municipality a one-time option to choose whether it wants to provide its residents with a property tax differential or receive a municipal rebate payment. A variation of this model was adopted by Frederick County when it revised its MTD program in 2011. Currently, Prince George's County and Anne Arundel County also administer tax differentials.

Revision C: Fund park maintenance service rebates with revenue from the Metropolitan District, or redraw the Metropolitan District boundaries to eliminate the need for park maintenance reimbursement payments within the MTD program.

The Council currently funds MTD program rebates for park maintenance out of the General Fund despite the fact that the Metropolitan District, a special area property tax district, exists to fund park maintenance and other park activities. Both IGS and MML note that special area tax districts can serve as a vehicle to resolve the tax equity issues that would otherwise require a municipal tax duplication program. Also, the formula that the MTD Program uses to calculate rebate amounts is outdated. A subcommittee of the Municipal Revenue Sharing Task Force developed a proposal to update the methodology for calculating park maintenance service costs.

OLO recommends that the Council revise current practice for park maintenance reimbursement under the MTD program through one of the two options listed below:

- Endorse re-drawing the boundaries of the County's Metropolitan District to exclude those municipalities that currently pay both Metropolitan District property taxes and fund park maintenance activities through municipal property taxes. This action would remove any potential double taxation for park maintenance services and eliminate the need for these services to be included in the MTD program; or
- Adopt the updated methodology for calculating park maintenance service costs as endorsed by the Municipal Revenue Sharing Task Force, and fund the annual payments determined under this methodology with revenue collected from the Metropolitan District Tax.

Since the Metropolitan District is a state established bi-county tax district, re-drawing the tax district boundaries may require state legislation. Adoption of the updated methodology option could be included as part of an updated Council resolution. Additionally, either revision option could require action from the Montgomery County Parks Commission.

Revision D: Transfer the Takoma Park Library rebate, currently authorized as a separate payment in County law, into the MTD Program.

The current library rebate to the City of Takoma Park is a tax duplication payment, as it reimburses the City for that portion of County property tax payments that City residents pay for County library services. As such, the library rebate clearly falls within the scope of the MTD Program.

OLO recommends that the Council continue to reimburse Takoma Park for library services, but do so as part of the MTD program instead of under a separate County law. Consolidating the tax duplication determinations for all services into one program would improve the County's ability to make uniform cost of service determinations and improve the County's overall tax duplication governance structure.

This action may require amending County law to eliminate the stand-alone rebate payment and clarify that library services reimbursement should be funded through the County's MTD program.

<u>Revision E:</u> Include land use administrative hearings as reimbursable services under the MTD program for all municipalities in the County that provide these services.

The MTD program currently issues a rebate payment for board of appeals and zoning administration hearings to only one municipality, the Town of Chevy Chase. Seven other municipalities in the County provide their own land use administrative hearings that are funded by city property taxes but do not receive an MTD reimbursement. As a result, the residents of these seven municipalities pay county property taxes to the County General Fund that pay for County land use administrative hearings that the municipal residents do not use. This is the type of double taxation issue a Municipal Tax Duplication program exists to address.

OLO recommends the Council update the MTD program policy so that reimbursements for land use administrative hearings are provided consistently across qualifying municipalities.

<u>Revision F:</u> Revise current cost of service formulas with a methodology that uses available activity and/or relevant program data to develop unit cost factors for crossing guards, human relations and library services.

The effective administration of an MTD program requires a consistent set of formulas to bring uniformity, objectivity and credibility to the processes that MTD uses to determine tax set-offs. OLO found the County's MTD program's formulas have been an ongoing and persistent problem.

The current mix of MTD formulas includes some that calculate net per capita service costs. Specifically, the County uses this approach to calculate rebates for animal control, board of appeals and zoning hearings, and senior groceries and senior transportation services.

OLO recommends that the County adopt this unit cost methodology for crossing guards, human relations, and library services. In effect, this approach uses the County's average net per capita service cost as a proxy to assign a value to a municipal service that reflects its proportionate contribution to a countywide service network. This approach sacrifices some precision compared to current formulas in exchange for more consistent, transparent and predictable service cost determinations. Developing and updating a schedule of unit costs would also allow municipalities to replicate the County's calculations and estimate their own payment amounts as soon as the County posted a schedule of unit cost factors.

OLO recommends following IGS recommended practices and adapting the process steps that Frederick County uses to calculate its initial service area costs.

1) The first step establishes the Total Program Costs.
2) The second step subtracts service and program related revenues from the Total Program Costs to determine the Net Program Costs.

3) The third step divides the Net Program Costs (from step 2) by the population of the County's service area to determine the County's per capita service cost; and
4) The fourth step multiplies the unit cost (from step 3) by the sum of the municipal populations not served by the County to determine the total municipal cost share.

<u>Revision G:</u> **Revise the methodology for transportation services reimbursement to determine the County's net costs per mile using data from the Local Highway Finance Report filed annually with the State.**

The existing transportation services formula already calculates a per mileage cost factor and uses unit cost factors for discrete maintenance activities. A subcommittee of the Municipal Revenue Task Force proposed revisions to this formula but municipal and Executive representatives were not able to reach a consensus recommendation.

Montgomery County annually files a Local Highway Finance Report with the State as an attachment to the Uniform Financial Report. The Local Highway Finance Report captures both revenue and expenditure data. The reported revenue items include State Highway User Revenues and General Fund appropriations, and the reported expenditure items include capital outlays, maintenance, road and street services, General administration and miscellaneous, and highway law enforcement and safety.

OLO recommends that the Council endorse revising the MTD reimbursement formula to use these annual reporting data to calculate the County cost per mile for transportation services using three expenditure components: 1) maintenance, 2) road and street services, and 3) general administration. Adopting this revision will ensure a consistent and repeatable set of expenditure data are used each year to determine per mile costs. The calculations proposed under this revision would consist of the following steps:

1) Sum the expenditures for Road Maintenance, Road and Street Services and General Administration and use this result as the Total Transportation Service Cost.
2) Divide the General Fund appropriation into total receipts to determine the General Fund contribution. Multiple this ratio by the Total Transportation Services Cost (from Step 1) to determine the General Fund's Program Cost.
3) Prepare a Schedule of Transportation Revenues from the UFR Revenue Schedule and subtract these revenues from the result in Step 2 to determine the Net Activity Cost.
4) Divide the Net Activity Cost (from Step 3) by the County maintained mileage to determine the County's average service cost per mile.
5) Multiply this factor by the municipal miles to determine the proxy amount for the municipal cost of transportation services.

Revision H: **Provide a single reimbursement payment for Takoma Park police services through the MTD program by eliminating the stand-alone payment authorized in the County Code. Revise the current repayment methodology to utilize a unit cost formula.**

Currently, the methodologies for the Takoma Park police services rebate consist of one payment outside of the MTD program, i.e., a property tax rebate authorized in the County Code, and one payment within the MTD program that relies on an assortment of personnel data and position costs to develop a County cost that replicates City service levels as detailed in a 2004 memorandum of understanding. The Municipal Revenue Sharing Task Force did not address either formula.

OLO recommends that the Council consolidate all rebate payments for Takoma Park police services into the MTD program. Consolidating the tax duplication determinations for all services into one program would improve the County's ability to make uniform cost of service determinations and improve the County's overall tax duplication governance structure.

Additionally, OLO recommends that the Council endorse the use of a unit cost reimbursement methodology as detailed above in the proposed revisions for other service areas. The calculations proposed under this revision would consist of the following steps:

1) Establish Total Police Expenditures from the County's Uniform Financial Report as a control total.
2) Subtract the Total Service Costs for Animal Control Field Services and Crossing Guards.
3) Prepare a schedule of police revenues from the UFR Revenue Schedule and subtract these revenues from the result in Step 2. This result is the Net Cost for Police Services.
4) Divide the Net Activity Cost (from Step 3) by the population served by the County to determine the County's average per capita service cost.
5) Multiply this factor by the municipal population for Takoma Park to determine the proxy amount for the municipal cost of police services.

Revision I: **Incorporate the use of service rate factors as part of the County's MTD program, and re-institute reimbursement for police patrol services in Chevy Chase Village, Gaithersburg and Rockville under the partial service rate model.**

IGS' recommended practices for MTD programs include the concept of service rates so counties can recognize and credit their municipalities' partial service contributions. County law currently precludes County/municipal service partnerships with partial service level contributions by a municipality. Prince George's County's MTD program makes extensive use of service rates.

Montgomery County's lack of service rates may have been a contributing factor in the 1996 decision to de-list police patrol services provided by Chevy Chase Village, Gaithersburg and the City of Rockville as reimbursable activities. The Municipal Revenue Sharing Task Force addressed this issue but it did not reach consensus.

OLO recommends the Council qualify police patrol services provided by Chevy Chase Village, Gaithersburg and Rockville as reimbursable services in exchange for municipal commitments that their patrols serve as primary responders on calls dispatched by the County inside municipal boundaries. The rationale for adding these services back is that municipalities currently incur expenses for these services, and that County and municipal police patrol activities are comparable.

If the County and the municipalities reach agreement to re-instate patrol services, OLO recommends that the Council discuss development of a service rate methodology with municipal officials and Executive representatives.

OLO's analysis of calendar year 2012 MCPD police event dispatch data and data provided by Chevy Chase Village yielded municipal service rates of 16% for Chevy Chase Village, 42% for Gaithersburg and 73% for Rockville. The Gaithersburg and Rockville service rates are the share of police events within each municipal boundary that were handled exclusively by municipal units. The service rate for Chevy Chase Village is the ratio of MCPD dispatched calls to total Chevy Chase Village calls for service responses. In Tables 9-4 and 9-6, these service rates are applied to the municipal population data to determine the population that did not receive County services (70,166), and the total municipal service cost estimate ($7.3 million) based on the County's per capita patrol services cost of $105.

Recommendation #2: Establish and fund a Municipal Grant Program to close municipal funding gaps for the full cost of reimbursable services and to fund non-recurring expenses or other initiatives. Structure the program to cap total annual funding at an amount equal to the total payment for reimbursable services and require a municipal matching contribution.

OLO heard from municipal stakeholders that a source of funding for non-recurring expenses is needed and that the County could benefit from reimbursing municipalities for services they provide that extend County services. OLO also recognizes that neither County funding priorities nor municipal wealth bases are uniformly consistent across the county. This recommendation would establish a grant program to provide a source of funds for non-recurring expenses and allow policy makers the flexibility they need to make funding decisions to address areas of need in municipalities.

Given the diverse needs and wealth characteristics of the County's municipalities, OLO recommends the first claim on available funds be used to close gaps that arise between the full cost of each municipality's reimbursable services and its shared county income tax revenue. OLO's analysis of FY11 costs and revenues identified two municipalities – Takoma Park and Washington Grove - that would have qualified for this type of grant. (See Table 9-8 for a calculation that reflects the proposed changes to the service cost formulas.)

Awards could also be used to fund pilot projects that would align with existing or planned County initiatives, e.g. municipal projects to expand the County's social services outreach or after school programs. OLO suggests the Council consider convening each fall with interested municipalities to discuss other possible shared service initiatives and funding.

To maintain equity and protect the interests of nonmunicipal taxpayers, annual appropriation for this grant program should be capped at an amount equal to the total payment to reimburse municipalities for their reimbursable services and the program should require a matching municipal contribution. OLO suggests that the Council solicit the interest of the County chapter of the Maryland Municipal League in partnering with the Council to implement this program.

Table 9-1: Full Cost of Service Calculations for Unit Cost Model without Police Service Rates (Option A)

Service Category/Activity (1)	Transportation Services Expenditures and Revenues	General Fund Service Costs	General Fund Program Revenues	General Fund Net Service Costs	# of Units Served	Per Unit Cost	Units Not Served	Cumulative Municipal Service Costs
Transportation (2)	$ 89,259,530	$ 55,716,070	$ 2,352,970	$ 53,363,100	2,239	$ 23,833.45	350.60	$ 8,356,008
Road Maintenance	$ 18,559,810							
Road and Street Services	$ 62,616,911							
General Administration	$ 8,082,809							
General fund appropriation (I.A2)	$ 253,171,843							
Total receipts	$ 405,592,132							
General fund share	62%							
Police (3)		$ 202,113,605						
Animal Control Field Services		$ 944,201			854,298	$ 1.11	121,141	$ 133,889
Crossing Guards		$ 4,230,452			958,724	$ 4.41	16,715	$ 73,756
Takoma Park Police Services		$ 196,938,952	$ 33,915,917	$ 163,023,035	958,724	$ 170.04	16,715	$ 2,842,247
General Government (4)								
Board of Appeals (5)		$ 596,995	$ 229,963	$ 367,032	845,378	$ 0.43	130,061	$ 56,468
Libraries		$ 28,292,193	$ 5,032,904	$ 23,259,289	958,724	24.26	16,715	405,517
Human Relations		$ 2,107,950	$ 103,900	$ 2,004,050	914,230	$ 2.19	61,209	$ 134,174
Senior Groceries		$ 556,754		$ 556,754	970,741	$ 0.57	4,698	$ 2,694
Senior Transportation		$ 655,391		$ 655,391	970,741	$ 0.68	125,839	$ 84,960
Zoning Admin Hrgs (5)		$ 491,723	$ 35,080	$ 456,643	845,378	$ 0.54	130,061	$ 70,254
GRAND TOTAL								**$ 12,159,968**

Data Sources: (1) Services include land use hearings and exclude park maintenance; (2) Transportation UFR Local Highway Report; (3) Police Total Expenditiures from UFR; FY11 Actual Police Revenues from Approved FY13 Budget; Animal Control and Crossing Guard Total Costs from OMB MTD Program; (4) Total Costs and revenues for all activities from OMB MTD Program data and OMB Library Property Tax Rebate calculations; (5) The population data reflect expanded rebates for land use hearings.

Property Tax Revenue (UFR)	$1,061,582,080
Total Revenue	$2,659,267,323
Property Tax Share	40.00%
Cumulative Municipal Costs	$ 12,159,968
Property Tax MTD Payment	**$ 4,863,987**

Table 9-2: Full Cost of Service Estimates by Municipality for Option A

Municipality	Transportation Services	Animal Control	Crossing Guards	All Police	Board of Appeals	Library Services	Human Relations	Senior Groceries	Senior Trans.	Zoning Hearings	Total - Full Cost of Service
	$ 23,833	1.105	$ 4.41	$ 170.04	$ 0.43	24.26	$ 2.19	$ 0.57	$ 0.68	$ 0.54	
Barnesville	$ -				$ 74.68					$ 92.91	$ 168
Brookeville	$ 15,968				$ 58.18					$ 72.38	$ 16,099
Chevy Chase Sec III (1)	$ 53,149										$ 53,149
Chevy Chase Sec V	$ 38,134										$ 38,134
Chevy Chase View	$ 81,034										$ 81,034
Chevy Chase Village	$ 193,528										$ 193,528
Town of Chevy Chasen (1)	$ 236,428				$ 1,226					$ 1,525	$ 239,179
Drummond	$ 9,057										$ 9,057
Friendship Heights (1)	$ 19,543							$ 2,694	$ 3,172		$ 25,410
Gaithersburg	$ 2,096,867	$ 66,239			$ 26,020				$ 40,463	$ 32,373	$ 2,261,962
Garrett Park	$ 95,095										$ 95,095
Glen Echo	$ 40,755										$ 40,755
Kensington (1)	$ 194,719										$ 194,719
Laytonsville	$ 25,502				$ 153					$ 191	$ 25,846
Martin's Addition	$ 52,672										$ 52,672
North Chevy Chase	$ 46,952										$ 46,952
Oakmont	$ 6,435										$ 6,435
Poolesville	$ 413,510				$ 2,120					$ 2,637	$ 418,267
Rockville	$ 3,719,449	$ 67,650			$ 26,575		$ 134,174		$ 41,325	$ 33,063	$ 4,022,236
Somerset	$ 101,054										$ 101,054
Takoma Park (1)	$ 827,736		$ 73,756	$ 2,842,247		405,517					$ 4,149,256
Washington Grove	$ 88,184				$ 241					$ 300	$ 88,725
Totals	$ 8,355,770	$ 133,889	$ 73,756	$ 2,842,247	$ 56,468	405,517	$ 134,174	$ 2,694	$ 84,960	$ 70,254	$ 12,159,730

(1) Payments exclude Park Maintenance for Chevy Chase Sec III ($4,056), Town of Chevy Chase ($9,681), Friendship Heights ($75,997), Kensington ($39,077), Takoma Park ($76,440)

Table 9-3: Property Tax Rebate Payments by Municipality for Option A

Municipality	A Proposed Full Cost of Service (from Table 9-2)	B Proposed Payment Method (Property Tax Share is 40%)	C FY13 Actual Payments without Parks (1)	D Effect of Payment Method Change (B-C)
Barnesville	$ 168	$ 67		$ 67
Brookeville	$ 16,099	$ 6,440	$ 6,794	$ (354)
Chevy Chase Sec III (1)	$ 53,149	$ 21,259	$ 28,471	$ (7,212)
Chevy Chase Sec V	$ 38,134	$ 15,253	$ -	$ 15,253
Chevy Chase View	$ 81,034	$ 32,413	$ 41,275	$ (8,862)
Chevy Chase Village	$ 193,528	$ 77,411	$ 100,524	$ (23,113)
Town of Chevy Chasen (1)	$ 239,179	$ 95,672	$ 124,887	$ (29,215)
Drummond	$ 9,057	$ 3,623	$ 4,613	$ (990)
Friendship Heights (1)	$ 25,410	$ 10,164	$ 20,131	$ (9,967)
Gaithersburg	$ 2,261,962	$ 904,785	$ 1,168,467	$ (263,682)
Garrett Park	$ 95,095	$ 38,038	$ 47,593	$ (9,555)
Glen Echo	$ 40,755	$ 16,302	$ 20,762	$ (4,460)
Kensington (1)	$ 194,719	$ 77,888	$ 114,082	$ (36,194)
Laytonsville	$ 25,846	$ 10,338	$ 12,991	$ (2,653)
Martin's Addition	$ 52,672	$ 21,069	$ 26,832	$ (5,763)
North Chevy Chase	$ 46,952	$ 18,781	$ 23,918	$ (5,137)
Oakmont	$ 6,435	$ 2,574	$ 3,278	$ (704)
Poolesville	$ 418,267	$ 167,307	$ 210,634	$ (43,327)
Rockville	$ 4,022,236	$ 1,608,894	$ 2,116,671	$ (507,777)
Somerset	$ 101,054	$ 40,422	$ 52,560	$ (12,138)
Takoma Park (1) (2)	$ 4,149,256	$ 1,659,702	$ 3,440,730	$ (1,781,028)
Washington Grove	$ 88,725	$ 35,490	$ 44,922	$ (9,432)
Totals	$ 12,159,730	$ 4,863,892	$ 7,610,136	$ (2,746,244)

(1) Cost of Service and Payment Calculations exclude Park Maintenance for Chevy Chase Sec III ($4,056), Town of Chevy Chase ($9,681), Friendship Heights ($75,997), Kensington ($39,077), Takoma Park ($76,440)

(2) The $1.8 million reduction in the Takoma Park payment does not account for proposed elimination of the Takoma Park Police and Library property tax rebates. In FY13, these rebates totaled $1.1 million; the Police Rebate was $950,000 and the Library Rebate was $151,000. In FY13, these rebates plus Takoma Park's FY13 Actual MTD Payment of $3.44 million totaled $4.54 million. The effect of the proposed payment of $1.7 million results is a reduction of $2.88 million.

Table 9-4: Full Cost of Service Calculations for Unit Cost Model with Police Service Rates (Option B)

Service Category/Activity (1)	Transportation Services Expenditures and Revenues	General Fund Service Costs	General Fund Program Revenues	General Fund Net Service Costs	# of Units Served	Per Unit Cost	Units Not Served	Cumulative Municipal Service Costs
Transportation (2)	$ 89,259,530	$ 55,716,070	$ 2,352,970	$ 53,363,100	2,239	$ 23,833.45	351	$ 8,356,008
Road Maintenance	$ 18,559,810							
Road and Street Services	$ 62,616,911							
General Administration	$ 8,082,809							
General fund appropriation (I.A2)	$ 253,171,843							
Total receipts	$ 405,592,132							
General fund share	62%							
Police (3)		$ 202,113,605						
Animal Control Field Services		$ 944,201			854,298	$ 1.11	121,141	$ 133,889
Crossing Guards		$ 4,230,452			958,724	$ 4.41	16,715	$ 73,756
Takoma Park Police Services		$ 196,938,952	$ 33,915,917	$ 163,023,035	888,558	$ 183.47	16,715	$ 3,066,690
Patrol Services (57%)				$ 92,923,130		$ 104.58	70,166	$ 7,337,837
General Government (4)								
Board of Appeals (5)		$ 596,995	$ 229,963	$ 367,032	845,378	$ 0.43	130,061	$ 56,468
Libraries		$ 28,292,193	$ 5,032,904	$ 23,259,289	958,724	24.26	16,715	405,517
Human Relations		$ 2,107,950	$ 103,900	$ 2,004,050	914,230	$ 2.19	61,209	$ 134,174
Senior Groceries		$ 556,754		$ 556,754	970,741	$ 0.57	4,698	$ 2,694
Senior Transportation		$ 655,391		$ 655,391	970,741	$ 0.68	125,839	$ 84,960
Zoning Admin Hrgs (5)		$ 491,723	$ 35,080	$ 456,643	845,378	$ 0.54	130,061	$ 70,254
GRAND TOTAL								**$ 19,722,248**

Data Sources: (1) Services include land use hearings and exclude park maintenance; (2) Transportation UFR Local Highway Report; (3) Police Total Expenditiures from UFR; FY11 Actual Police Revenues from Approved FY13 Budget; Animal Control and Crossing Guard Total Costs from OMB MTD Program; (4) Total Costs and revenues for all activities from OMB MTD Program data and OMB Library Property Tax Rebate calculations; (5) The population data reflect expanded rebates for land use hearings.

Property Tax Revenue (UFR)	$1,061,582,080
Total Revenue	$2,659,267,323
Property Tax Share	40%
Cumulative Municipal Costs	$ 19,722,248
Property Tax MTD Payment	**$ 7,888,899**

Table 9-5: Police Service Rate Calculations

Police Service Rate Analysis	City Calls for Service Response	Total Calls	Municipal Service Rate	2011 Municipal Population	County Service Rate	Population Served by County	Population Not Served
Chevy Chase Village	322	2,077	16%	1,953	84%	1,641	312
Gaithersburg	5,601	13,484	42%	59,932	58%	34,761	25,171
Rockville	11,595	15,905	73%	61,209	27%	16,526	44,683
Totals	17,518	31,466		123,094		52,928	70,166

Service Area Adjustments	Served	Not Served
Option A Service Population	123,094	0
Option B Service Area Population	52,928	70,166
Change	(70,166)	70,166

Table 9-6: Full Cost of Service Estimates by Municipality for Option B

Municipality	Transportation Services	Animal Control	Crossing Guards	All Police	Patrol Services	Board of Appeals Hearings	Library Services	Human Relations	Senior Groceries	Senior Trans	Zoning Hearings	Total Payments - Full Cost
	$ 23,833	1.105	$ 4.41	$ 183.47	$ 104.58	$ 0.43	24.26	$ 2.19	$ 0.57	$ 0.68	$ 0.54	
Barnesville	$ -					$ 75					$ 92.91	$ 168
Brookeville	$ 15,968					$ 58					$ 72.38	$ 16,099
Chevy Chase Sec III (1)	$ 53,149											$ 53,149
Chevy Chase Sec V	$ 38,134											$ 38,134
Chevy Chase View	$ 81,034											$ 81,034
Chevy Chase Village	$ 193,528				$ 32,678							$ 226,206
Town of Chevy Chase (1)	$ 236,428					$ 1,226					$ 1,525	$ 239,179
Drummond	$ 9,057											$ 9,057
Friendship Heights (1)	$ 19,543								$ 2,694	$ 3,172		$ 25,410
Gaithersburg	$ 2,096,867	$ 66,239			$ 2,632,366	$ 26,020				$ 40,463	$ 32,373	$ 4,894,329
Garrett Park	$ 95,095											$ 95,095
Glen Echo	$ 40,755											$ 40,755
Kensington (1)	$ 194,719											$ 194,719
Laytonsville	$ 25,502					$ 153					$ 191	$ 25,846
Martin's Addition	$ 52,672											$ 52,672
North Chevy Chase	$ 46,952											$ 46,952
Oakmont	$ 6,435											$ 6,435
Poolesville	$ 413,510					$ 2,120					$ 2,637	$ 418,267
Rockville	$ 3,719,449	$ 67,650			$ 4,672,792	$ 26,575		$ 134,174		$ 41,325	$ 33,063	$ 8,695,027
Somerset	$ 101,054											$ 101,054
Takoma Park (1)	$ 827,736		$ 73,756	$ 3,066,690			405,517					$ 4,373,699
Washington Grove	$ 88,184					$ 241					$ 300	$ 88,725
Totals	$ 8,355,770	$ 133,889	$ 73,756	$ 3,066,690	$ 7,337,837	$ 56,468	405,517	$ 134,174	$ 2,694	$ 84,960	$ 70,254	$ 19,722,009

(1) Payments exclude Park Maintenance for Chevy Chase Sec III ($4,056), Town of Chevy Chase ($9,681), Friendship Heights ($75,997), Kensington ($39,077), Takoma Park ($76,440)

Table 9-7: Property Tax Rebate Payments by Municipality for Option B

Municipality	A Proposed Full Cost of Service (from Table 9-6)	B Proposed Payment Method (Property Tax Share is 40%)	C FY13 Actual Payments without Parks (1)	D Effect of Payment Method Change (B-C)
Barnesville	$ 168	$ 67		$ 67
Brookeville	$ 16,099	$ 6,440	$ 6,794	$ (354)
Chevy Chase Sec III	$ 53,149	$ 21,259	$ 28,471	$ (7,212)
Chevy Chase Sec V	$ 38,134	$ 15,253	$ -	$ 15,253
Chevy Chase View	$ 81,034	$ 32,413	$ 41,275	$ (8,862)
Chevy Chase Village	$ 226,206	$ 90,482	$ 100,524	$ (10,042)
Town of Chevy Chase	$ 239,179	$ 95,672	$ 124,887	$ (29,215)
Drummond	$ 9,057	$ 3,623	$ 4,613	$ (990)
Friendship Heights	$ 25,410	$ 10,164	$ 20,131	$ (9,967)
Gaithersburg	$ 4,894,329	$ 1,957,732	$ 1,168,467	$ 789,265
Garrett Park	$ 95,095	$ 38,038	$ 47,593	$ (9,555)
Glen Echo	$ 40,755	$ 16,302	$ 20,762	$ (4,460)
Kensington	$ 194,719	$ 77,888	$ 114,082	$ (36,194)
Laytonsville	$ 25,846	$ 10,338	$ 12,991	$ (2,653)
Martin's Addition	$ 52,672	$ 21,069	$ 26,832	$ (5,763)
North Chevy Chase	$ 46,952	$ 18,781	$ 23,918	$ (5,137)
Oakmont	$ 6,435	$ 2,574	$ 3,278	$ (704)
Poolesville	$ 418,267	$ 167,307	$ 210,634	$ (43,327)
Rockville	$ 8,695,027	$ 3,478,011	$ 2,116,671	$ 1,361,340
Somerset	$ 101,054	$ 40,422	$ 52,560	$ (12,138)
Takoma Park	$ 4,373,699	$ 1,749,480	$ 3,440,730	$ (1,691,250)
Washington Grove	$ 88,725	$ 35,490	$ 44,922	$ (9,432)
Totals	$ 19,722,009	$ 7,888,804	$ 7,610,136	$ 278,668

(1) Payments exclude Park Maintenance for Chevy Chase Sec III ($4,056), Town of Chevy Chase ($9,681), Friendship Heights ($75,997), Kensington ($39,077), Takoma Park ($76,440)

(2) The $1.7 million reduction in the Takoma Park payment does not account for proposed elimination of the Takoma Park Police and Library property tax rebates. In FY13, these rebates totaled $1.1 million; the Police Rebate was $950,000 and the Library Rebate was $151,000. In FY13, these rebates plus Takoma Park's FY13 Actual MTD Payment of $3.44 million totaled $4.54 million. The effect of the proposed payment of $1.7 million results is a reduction of $2.79 million.

Table 9-8: Comparison of Municipal Reimbursable Shared Service Costs, County Income Tax Revenue and MTD Payments

	A	B	C	D	E
Municipality	**Reimbursable Shared Service Costs (100%)**	**Distributed County Income Tax Revenue**	**Difference (B-A)**	**40% Payment**	**Effect of MTD Payment (C+D)**
Barnesville	$ 168	$46,781	$46,613	$ 67	$46,680
Brookeville	$16,099	$111,675	$95,576	$ 6,440	$102,016
Chevy Chase Village, Sec 3	$53,149	$325,420	$272,271	$ 21,259	$293,531
Chevy Chase Village, Sec 5	$38,134	$352,674	$314,540	$ 15,253	$329,794
Chevy Chase View	$81,034	$325,909	$244,875	$ 32,413	$277,289
Chevy Chase Village	$226,206	$1,414,503	$1,188,297	$ 90,482	$1,278,779
Chevy Chase Town	$239,179	$2,174,114	$1,934,935	$ 95,672	$2,030,606
Drummond	$9,057	$52,798	$43,741	$ 3,623	$47,364
Friendship Heights	$25,410	$943,010	$917,600	$ 10,164	$927,764
Gaithersburg	$4,894,329	$8,601,966	$3,707,637	$ 1,957,732	$5,665,369
Garrett Park	$95,095	$242,280	$147,185	$ 38,038	$185,223
Glen Echo	$40,755	$67,925	$27,170	$ 16,302	$43,472
Kensington	$194,719	$464,332	$269,613	$ 77,888	$347,500
Laytonsville	$25,846	$137,728	$111,882	$ 10,338	$122,221
Martin's Additions	$52,672	$353,851	$301,179	$ 21,069	$322,248
North Chevy Chase	$46,952	$145,633	$98,681	$ 18,781	$117,462
Oakmont	$6,435	$45,236	$38,801	$ 2,574	$41,375
Poolesville	$418,267	$1,014,387	$596,120	$ 167,307	$763,427
Rockville	$8,695,027	$11,048,348	$2,353,321	$ 3,478,011	$5,831,332
Somerset	$101,054	$476,071	$375,017	$ 40,422	$415,439
Takoma Park	$4,373,699	$2,330,225	($2,043,474)	$ 1,749,480	($293,994)
Washington Grove	$88,725	$67,660	($21,065)	$ 35,490	$14,425
Total	**$19,722,009**	**$30,742,526**	**$11,020,517**	**$ 7,888,804**	**$18,909,320**

X. Agency Comments

The Office of Legislative Oversight shared a final draft of this report with the Chief Administrative Officer of Montgomery County. OLO appreciates the time County representatives took to review the draft and provide comments. OLO's final report incorporates the technical corrections they provided.

OLO has modified its proposal for Revision X in response to the County's comments. Originally, OLO proposed that the Council provide municipalities with the opportunity to make an annual election for a tax differential or a municipal rebate payment. The modified revision proposes that that the Council offer municipalities a one-time opportunity to choose one of these two payment methods. This responds to the County's comment that an annual election would impose a greater administrative burden with few corresponding benefits.

The written comments received from the Chief Administrative Officer are attached in their entirety, beginning on the following page.

OFFICE OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

June 7, 2013

TO: Chris Cihlar, Director, Office of Legislative Oversight

FROM: Timothy L. Firestine, Chief Administrative Officer Timothy L. Firestine

SUBJECT: Final Draft Report: Municipal Tax Duplication and Revenue Sharing in Montgomery County Maryland

I am in receipt of your final draft report dated May 9, 2013, reviewing the Montgomery County Municipal Tax Duplication program. It is a thorough study of not only our program, but also those of other Maryland jurisdictions, the State requirements, and the State shared revenues that affect them. I am generally in agreement with a majority of the recommendations in the report, and hope that all parties can agree to the changes to the program and make the program more effective, fair, and transparent.

Below are specific responses to your recommendations

OLO Recommendation #1

Implement nine revisions to strengthen the fairness, uniformity and sustainability of the County's MTD Program.

OLO Recommendation #1 Revision A:

Revise the MTD payment formula to reimburse on a property tax cost basis instead of a full service cost basis to better align the County's MTD program with State law and the State's shared revenue structure.

<u>CAO Response to OLO Recommendation #1, Revision A</u>

We agree with your finding and recommendation. By basing the payments on a property tax cost basis, we would avoid both the inequity of municipal taxpayers contributing to the cost of a service they do not receive from the County, and the inequity of a non-municipal taxpayer subsidy for municipal services. As Table 5-4 shows, the municipalities generally spend more per capita on shared services than the County does. This may be, in part, a consequence of their receiving both a reimbursement from the County above Property Tax duplication and a share of County income taxes. We agree that this revision would address this potential inequity caused by the State's shared revenue structure.

OLO Recommendation #1 Revision B:

Give municipalities and their taxpayers the option to make an annual election for either a County property tax rate differential or a property tax share municipal rebate payment.

CAO Response to OLO Recommendation #1, Revision B

We agree with your finding, but not fully agree with your recommendation. While we agree with providing the municipalities an option to elect either a County property tax rate differential or a property tax share municipal rebate payment, we do not see why this should be made by the municipality as an annual election. That would result in an additional annual administrative burden on the County without, we believe, any additional effectiveness. We would also note that tax differentials may result in unavoidable inaccuracies compared to rebates. This is because tax rates can only be set to the tenth of a cent; when applied to, in some cases, small assessable bases that may result in a differential that does not match the County property tax funded costs of the services being reimbursed.

OLO Recommendation #1 Revision C:

Fund park maintenance service rebates with revenue From the Metropolitan District, or redraw the Metropolitan District boundaries to eliminate the need for park maintenance reimbursement payments within the MTD program.

CAO Response to OLO Recommendation #1, Revision C

We agree with your finding and recommendation. We further recommend that this matter be administered by the Maryland-National Capital Park and Planning commission.

OLO Recommendation #1 Revision D:

Transfer the Takoma Park Library rebate, currently authorized as a separate payment in County law, into the MTD Program.

CAO Response to OLO Recommendation #1, Revision D

We agree with your finding and recommendation. This consolidation would contribute to the transparency of the program and reduce the administrative overhead.

OLO Recommendation #1 Revision E:

Include land use administrative hearings as Reimbursable services under the MTD program for all municipalities in the County that provide these services.

CAO Response to OLO Recommendation #1, Revision E

We agree with your finding and recommendation, as it addresses what is currently an inequity.

OLO Recommendation #1 Revision F:

Revise current cost of service formulas with a methodology that uses available activity and/or relevant program data to develop unit cost factors for crossing guards, human relations and library services.

CAO Response to OLO Recommendation #1, Revision F

We agree with your finding and recommendation. By using data readily available to the public and simplifying some calculations the program can be made more transparent and administrative overhead reduced.

OLO Recommendation #1 Revision G:

Revise the methodology for transportation services reimbursement to determine the County's net costs per mile using data from the Local Highway Finance Report filed annually with the State.

CAO Response to OLO Recommendation #1, Revision G

We agree with your finding and recommendation, for the reasons stated above for Revision F.

OLO Recommendation #1 Revision H:

Provide a single reimbursement payment for Takoma Park police services through the MTD program by eliminating the stand-alone payment authorized in the County Code. Revise the current repayment methodology to utilize a unit cost formula.

CAO Response to OLO Recommendation #1, Revision H

We agree with your finding and recommendation, for the reasons stated above for Revisions D and F.

OLO Recommendation #1 Revision I:

Incorporate the use of service rate factors as part of the County's MTD program, and re-institute reimbursement for police patrol services in Chevy Chase Village, Gaithersburg and Rockville under the partial service rate model.

CAO Response to OLO Recommendation #1, Revision I

We agree with your finding and recommendation. We note the qualification in your recommendation that they be reimbursed "...in exchange for municipal commitments that their patrols serve as primary responders on calls dispatched by the County inside municipal boundaries." I have proposed this to the municipalities before, and the proposal was not accepted.

OLO Recommendation #2

Establish and fund a Municipal Grant Program to fund non-recurring expenses or other initiatives. Structure the program to cap annual funding at an amount equal to the annual appropriation for the MTD program and require a municipal matching contribution.

CAO Response to OLO Recommendation #2

We do not fully agree with this recommendation. There is a potential for service disruption for municipal residents if a sudden revision to property tax only payments is made (which would reduce payments from $7.8 million to $4.8 million), and we would agree that should be avoided.

As proposed, however, the grant program does not address that potential. Focusing on shared service initiatives and evaluating proposals on a case-by-case basis, as we frequently do in the successful Community Grants program, is a sound approach. It does not address, however, the potential impact on municipal-provided services to the municipal residents if the County payment for those services is suddenly reduced by three million dollars.

I would rather see the County Code changed to reflect the intent to, over time, base the program on a pure property tax reimbursement formula. As always, we would have the authority to appropriate funds at any level above what the Code would call for and within affordability; and this approach would make clear the intent to provide the municipalities time to make adjustments.

Thank you for the opportunity to respond to this draft and for your thorough study of our program, those of other Maryland jurisdictions, the State requirements, and the State shared revenues that affect them. If you have any questions, please feel free to contact me or Assistant Chief Administrative Officer Fariba Kassiri at 240-777-2512 or Fariba.Kassiri@montgomerycountymd.gov.

TLF:bm

cc: Fariba Kassiri, Assistant Chief Administrative Officer
Kathleen Boucher, Assistant Chief Administrative Officer
Jennifer Hughes, Director, Office of Management and Budget
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Arthur Holmes, Director, Department of Transportation
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Marc Hansen, County Attorney, Office of the County Attorney
Chief Thomas Manger, Montgomery County Police Department
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