

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	03/06/2020	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 4/10/2020

2. COMAR Codification

Title Subtitle Chapter Regulation

18 05 01 01, .02, .04, .05, .06

3. Name of Promulgating Authority

Department of Assessments and Taxation

4. Name of Regulations Coordinator

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Subtitle 05 AGRICULTURAL LAND TRANSFER TAX

18.05.01 Administration

Authority: Tax-Property Article, §§2-201, 2-202, and 13-307, Annotated Code of Maryland

Notice of Proposed Action

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The Director of the Department of Assessments and Taxation proposes to amend Regulations .01, .02, .04, .05 and .06 under COMAR 18.05.01 Administration.

Statement of Purpose

The purpose of this action is to bring the Department's regulations in line with statutory revisions effective July 1, 2019 that changed the percentages by which agricultural land transfer tax is reduced.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Charlotte Rogers, State Supervisor of Assessments, SDAT, 301 W. Preston Street, 8th Floor, Baltimore, MD 21201, or call 410-767-1197, or email to charlotte.rogers@maryland.gov, or fax to N/A. Comments will be accepted through May 11, 2020. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2020

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:
Simply mirror statutory law.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
Simply mirror statutory law.

G. Small Business Worksheet:

Attached Document:

Title 18 DEPARTMENT OF ASSESSMENTS AND TAXATION

Subtitle 05 AGRICULTURAL LAND TRANSFER TAX

Chapter 01 Administration

Authority: Tax-Property Article, §§2-201, 2-202, and 13-307, Annotated Code of Maryland

.01 Rates of Tax.

A. (text unchanged)

B. Reduction in Tax. [Except as provided in Tax-Property Article, §13-305(c) and (d), Annotated Code of Maryland, the tax is reduced by 25 percent for each consecutive full taxable year before a transfer in which property tax on the agricultural land was paid on the basis of any assessment other than the agricultural use assessment under Tax-Property Article, §8-209, Annotated Code of Maryland.] *Except as provided by Tax-Property Article, § 13-305(b)(2) or (c)(4), Annotated Code of Maryland, the agricultural land transfer tax is reduced by:*

(1) 25% if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment for 1 full taxable year before a transfer;

(2) 50% if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment for 2 full consecutive taxable years before a transfer; and

(3) 65% if property tax on the agricultural land was paid on the basis of any assessment other than the farm or agricultural use assessment for 3 or more full consecutive taxable years before a transfer.

C. [Montgomery County imposes a county agricultural land transfer tax (county tax) with a maximum rate of 6 percent. Pursuant to Tax-Property Article, §13-407, Annotated Code of Maryland, if there is a transfer of land subject to the tax and the county tax, the supervisor shall impose the full rate of tax and that rate of county tax that results in a combined rate not exceeding 6 percent. For example: A 15-acre unimproved parcel of land transfers. The tax rate is 4 percent and the county tax rate is 2 percent, resulting in a 6 percent combined rate.] *In addition to agricultural land transfer tax imposed under this subtitle, certain counties may impose county agricultural land transfer tax.*

D. In addition to the agricultural land transfer tax, a surcharge in an amount equal to 25% of the tax is imposed on an instrument of writing that transfers title to agricultural land except for an instrument of writing that transfers property of 2 acres or less to be improved to a child or grandchild of the owner.

.02 Calculation of Tax and Surcharge – Value Deductions.

A. Under Tax-Property Article, §13-304, Annotated Code of Maryland, the supervisor is required to deduct from the consideration payable for the instrument of writing the "total value", as defined in Tax-Property Article, §13-301(d), Annotated Code of Maryland, of any improvement on the property before applying the applicable tax rate *and surcharge*. For this purpose, the supervisor shall deduct only the total value of any structure or other item that is separately assessed on the property's assessment worksheet. For example, a 5-acre parcel transfers for a consideration of \$250,000. It is improved with an *outbuilding* [dwelling] that has a separately itemized value of \$175,000 on the property's assessment worksheet. The parcel is also improved with certain site improvements — a driveway, a well, a septic system, and sidewalks — which are all included in the \$50,000 land value portion on the assessment worksheet, but are not set out on the worksheet with a separate value for each item. The tax *and surcharge are* [is] calculated as follows:

\$250,000 Consideration
less \$175,000 Total improvement value
\$ 75,000 Net consideration
 $\$75,000 \times 0.03 = \$2,250$ Tax
 $\$2,250 \times 0.25 = \562.50 Surcharge
 $\$2,812.50 = \text{Total Tax and Surcharge Due}$

B. Under Tax-Property Article, §13-304, Annotated Code of Maryland, the supervisor is required to deduct from the consideration payable for the instrument of writing the "total value", as defined in Tax-Property Article, §13-301(d), Annotated Code of Maryland, of any land not subject to the tax *and surcharge* before applying the applicable tax rate *and surcharge*. For example, a 10-acre parcel transfers for a consideration of \$500,000. One acre of that parcel is a homesite assessed at \$100,000 that is not subject to the tax *and surcharge*. The tax *and surcharge are* [is] calculated as follows:

\$500,000 Consideration
less \$100,000 Nonagricultural land
\$400,000 Net consideration
 $\$400,000 \times 0.04$ [Tax Rate] = \$16,000 Tax
 $\$16,000 \times 0.25 = \$4,000$ Surcharge
 $\$20,000 = \text{Total Tax and Surcharge Due}$

C. Both §§A and B of this regulation may apply in the same transaction. For example, a 10-acre parcel transfers for a consideration of \$500,000. It is improved with a dwelling that has a separately itemized value of \$175,000 on the property's assessment worksheet. The parcel is also improved with certain site improvements — a driveway, a well, a septic system, and sidewalks — which are all included in the land value portion on the assessment worksheet, but are not set out on the worksheet with a separate value for each item. It also includes a 1-acre homesite assessed at \$100,000 that is not subject to the tax *and surcharge*. The tax *and surcharge are* [is] calculated as follows:

\$500,000 Consideration
less \$175,000 Improvement value
less \$100,000 Nonagricultural land
\$225,000 Net consideration
 $\$225,000 \times 0.03 = \$6,750$ Tax
 $\$6,750 \times 0.25 = \$1,687.50$ Surcharge
 $\$8,437.50 = \text{Total Tax and Surcharge Due}$

.03 (text unchanged)

.04 Transfer Procedure.

A. The supervisor shall calculate the tax *and surcharge* and the body of the written instrument conveying title shall be stamped with *the local tax collecting authority's verification of* the amount of tax and [penalty] *surcharge*, if any, due. The local tax collecting authority shall collect the tax *and surcharge* before the supervisor processes the instrument.

B. *The agricultural land transfer tax and surcharge do not apply to an instrument of writing that transfers title to agricultural land that was previously transferred by an instrument of writing that was subject to the agricultural land transfer tax.*

.05 Violations of Declaration of Intent.

The following are nonexclusive examples of violations of a declaration of intent where the tax, *surcharge* and penalty is imposed on that portion of the land subject to the violation:

A.-E. (text unchanged)

F. Rezoning the land under Tax-Property Article, § 8-209(h)[(1)(ii)], Annotated Code of Maryland.

.06 Appeal Procedures.

A. (text unchanged)

B. Declaration of Intent Violation.

(1) When the tax, *surcharge* and penalty are imposed because there is a violation of a declaration of intent under Tax-Property Article, §13-305[(c)(2) or (d)(4)], Annotated Code of Maryland, the supervisor determines the value of the land and imposes the tax, *surcharge* and penalty on that value. This value is determined as of the most recent July 1, based on the condition and characteristics of the land as of the date of violation. The supervisor notifies the person in writing of the value and the amount of tax, *surcharge* and penalty due.

(2) The tax, *surcharge* and penalty are due on the earlier of the next date on which property tax is due on the land or the date of the next transfer of any part of the land.

(3) If the tax, *surcharge* and penalty are not yet due under §B(2) of this regulation, the person may appeal the imposition of the tax, *surcharge* and penalty to the supervisor under Tax-Property Article, §14-506, Annotated Code of Maryland, without paying the tax, *surcharge* and penalty. After affording the person an opportunity to be heard, the supervisor shall notify the person of the supervisor's determination regarding the appeal, which may be appealed to the Tax Court under Tax-Property Article, §14-512(b), Annotated Code of Maryland. A final order of the Tax Court may be appealed to the circuit court under Tax-General Article, §13-532, Annotated Code of Maryland. An appeal under this subsection does not postpone the due date of the tax, *surcharge* and penalty.

(4) If the person pays the tax, *surcharge* and penalty, his appeal rights with regard to the tax, *surcharge* and penalty are as set forth in §A of this regulation.

(5) Whether or not the person pays the tax, *surcharge* and penalty, the person may appeal the value used to determine the amount of tax, *surcharge* and penalty to the supervisor. Further appeal of the value is to the local property tax assessment appeal board for the county where the land is situated, the Tax Court, and then the circuit court, under Tax-Property Article, 14-509(a) and 14-512(f)(2), and Tax-General Article, §13-532, Annotated Code of Maryland.