



City of Westminster

Full Council Report

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| Date: | 25 January 2023 |
| Classification: | General Release |
| Title: | Council Tax Discounts (including Council Tax Local Reduction Scheme) and Council Tax Base report |
| Report of: | Executive Director of Finance & Resources |
| Cabinet Member Portfolio: | Cabinet Member for Finance and Council Reform |
| Wards Affected: | All |
| Policy Context: | Statutory duty to set and collect Council Tax |
| Key Decision: | Yes |
| Financial Summary: | The report proposes that: <ul style="list-style-type: none">• The Council Tax discount for second homes remains at 0%• The Council Tax discounts for empty properties, including the discounts that replaced the previous Class A and C Council Tax exemptions, remains at 0%.• A Long-Term Empty Property Premium is continued at the maximum level allowed for by central government legislation.• The Director of Revenues and Benefits is authorised to determine any individual local discount requests in 2023/24 under Section 13A(1)(c) of the Local Government Finance Act 1992.• The Council Tax Base is set at 135,955.46 equivalent Band D properties for 2023/24 for the whole City, 91.68 equivalent band D properties for Montpelier Square and 3,637.83 equivalent band D properties for Queen's Park.• The existing Council Tax Local Reduction Scheme is retained for 2023/24. |

1. Summary

- 1.1 The Local Government Act 2003 provided local authorities with discretion in relation to the level of Council Tax discount for specific categories of Council Tax properties, namely second homes and long-term empty properties. The Local Government Finance Act 2012 which came into effect in April 2013 removed several Council Tax empty property exemptions and replaced them with locally determined discounts. The Act also enabled local authorities to remove the minimum 10% discount for second homes and to set a local Long-Term Empty Property Premium.
- 1.2 This report recommends retaining the same level of Council Tax discounts in 2023/24 as were set in 2022/23.
- 1.3 The report recommends that the Council continue to charge a Long-Term Empty Property Premium in 2023/24 at the maximum level allowed for by the current legislation.
- 1.4 The Welfare Reform Act 2012 and Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a locally determined Council Tax Reduction Scheme (also known as a local Council Tax Support Scheme), which is effectively now a type of Council Tax discount. The recommended 100% scheme for 2023/24 is a continuation of the scheme that was originally set by the Council in 2013/14.
- 1.5 The Council Tax Base is calculated in accordance with a nationally prescribed formula and represents the equivalent number of Band D properties within the area. The formula takes account of the number of properties in each band, the number of discounts given for single occupiers, empty dwellings, second homes and other eligible criteria, the prescribed proportions to convert numbers to Band D equivalents, and the estimated collection rate. The relevant regulations were changed from 1 April 2013, to enable the taxbase calculation to include a deduction for the equivalent number of Band D properties relating to the local authority's Council Tax Reduction Scheme. The Council Tax Base must be determined and be notified to the Greater London Authority (GLA) and other levying and precepting bodies. As in the past, these notifications must be made by 31 January.
- 1.6 The calculations as detailed in Appendices 1 and 2 confirm a figure of 135,955.46 equivalent Band D properties for the whole City, 91.68 Band D equivalent properties for Montpelier Square and 3,637.83 Band D equivalent properties for Queens Park. The Queen's Park Community Council was created on 1st April 2014 under the Council's Reorganisation of Community Governance Order 2013. The Queen's Park Community Council is a minor precepting authority for the purposes of Part 1 of the Local Government Finance Act 1992.
- 1.7 The taxbase calculation assumes that the recommendations in the report in relation to the level of Council Tax discounts and the Council Tax Reduction Scheme are adopted.

1.8 The recommendations shown in section 2 of this report were approved by Cabinet on 12 December 2022.

2. Recommendations

2.1 That the Council accepts the recommendations of the Cabinet and that the Council approves the following recommendations for the financial year 2023/24:-

- (i) that the Council Tax discount for second homes remains at 0% unless the government brings forward legislation to enable a Second Home Premium to be charged for the 2023/24 financial year. If this is the case, the premium should be set at the highest level allowed for by the legislation.
- (ii) the Council Tax discounts for empty properties, including the discounts that replaced the previous Class A and C Council Tax exemptions, remain at 0%.
- (iii) that a Long-Term Empty Property Premium continues at the maximum percentage allowed for by the current legislation for the 2023/24 financial year. and to charge the said premium a year after a property has been empty if the government brings forward legislation to allow this
- (iv) that the Director of Revenues & Benefits be given delegated authority to determine any individual local discount applications received from Council Taxpayers during the 2023/24 financial year under section 13A(1)(c) of the Local Government Finance Act 1992.

2.2 That the Council approve the same Council Tax Reduction Scheme for 2023/24 which has operated successfully since 2013/14. The scheme is based on the Default Scheme Regulations, updated to reflect changes made via the Prescribed Requirements Amendment Regulations and with War Disabled Pensions, War Widow, Pensions and Armed Forces Compensation scheme payments disregarded in full when calculating a claimant's income. The same disregards should also apply to Housing Benefit and claims for Discretionary Housing Payment (DHP).

2.3 That the Council resolve that the Council Tax Base for 2023/24 for the Whole City is 135,955.46 equivalent Band D properties, for Montpelier Square alone 91.68 equivalent Band D properties and for Queen's Park 3,637.83 equivalent Band D properties.

2.4 That the Council resolve that the figures set out in paragraph 2.3 above for the Council Tax Base for 2023/24 be used by the Council to make a determination pursuant to the requirements of the Local Government Finance Act 1992.

3. Council Tax Discounts

3.1 Legislation

- 3.1.1 The Local Government Act 2003 provided local authorities with discretion in relation to the level of Council Tax discount for specific categories of Council Tax properties, namely second homes and empty properties. It also made provision for a local authority to set its own “local” Council Tax discount categories.
- 3.1.2 The Local Government Finance Act 2012 which came into effect in April 2013 removed several Council Tax empty property exemptions and replaced them with local determined discounts. The Act also enabled local authorities to remove the minimum 10% discount for second homes and to set a Long-Term Empty Property Premium.
- 3.1.3 The Welfare Reform Act 2012 and Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a locally determined Council Tax Reduction Scheme (also referred to as a local Council Tax Support scheme), which is effectively now a type of Council Tax discount.

3.2 Second Homes

- 3.2.1 A second home in Council Tax terminology is a furnished property which is no-one’s sole/main residence.
- 3.2.2 The original Council Tax legislation prescribed that all local authorities had to give a discount of 50% for “second home” properties. However, the Local Government Act 2003 provided local authorities with the discretion to change the level of discount to less than 50% but set a minimum discount level of 10%. The Local Government Finance Act 2012 subsequently allowed the minimum discount to be reduced to 0%.
- 3.2.3 The relevant regulations include exclusions to the local authority discretion in relation to second home properties. The main exclusion being that local authorities are not able to amend the level of discount for the second homes of people who are liable for Council Tax on a property that is provided by an employer (tied accommodation). This means that the Council must continue to give a 50% discount for second homes meeting these criteria. A local authority also cannot amend the 50% level of the second home discount for any dwelling that consists of a pitch occupied by a caravan, or a mooring occupied by a boat.
- 3.2.4 For each financial year since 2013/14 the City Council has decided that the second home discount should be set at 0%. It is recommended that the City Council retains the same 0% discount in 2023/24, as a decision to set a higher level of discount would reduce the Council’s income.

3.2.5 It is understood that the government may bring forward legislation to allow for a Second Homes Premium (additional charge) on second homes. There are no further details at this stage and it is unknown when this legislation will be brought forward or any effective date for the change. It is however envisaged that the government may require a 12-month consultation phase before any change can be implemented. The recommendation in this report will allow the imposition of the Second Home Premium for the 2023/24 financial year if the forthcoming legislation allows.

3.3 Empty Properties

3.3.1 Prior to 1 April 2013, all Council Tax empty properties fell under one of the following three categories: -

- Class A Exemption

If the property was empty and subject to major repair works / structural alterations, it was exempt from Council Tax for 12 months.

- Class C Exemption

An exemption from Council Tax was granted for the first 6 months after a property became empty.

- Long-Term Empty Property Discount

This was a locally determined Council Tax discount for the period after a Class A or Class C Exemption had expired. The Council had set a 0% discount level which meant that the owners paid the full Council Tax charge.

3.3.2 The Local Government Finance Act 2012 amended the relevant legislation so that the statutory exemptions referred to above (Class A and Class C) were replaced by locally determined discounts from 1 April 2013.

3.3.3 Since the 2013/14 financial year the City Council has determined that a 0% discount should be set for:

- a) The empty property discount which replaced the Class A exemption
- b) The empty property discount that replaced the Class C exemption
- c) The empty long-term property discount

3.3.4 It is recommended that the City Council retains the same 0% discount for each of the three categories of empty property discount referred to in 3.3.3. The recommendation being based on the fact that any increase in the level of discount will reduce the Council's income.

3.4 Long Term Empty Property Premium

- 3.4.1 The Local Government Finance Act 2012 allows local authorities to set a Long-Term Empty Property Premium for properties that have been empty for at least 2 years. The premium is currently (for 2022/23) set at 100% of the normal Council Tax for properties that have been empty between 2 years – 5 years, 200% of the normal Council Tax for properties that have been empty between 5-10 years and 300% of the normal Council Tax for properties that have been empty for more than 10 years.
- 3.4.2 The current 100% premium on the Council's 277 properties that have been empty between 2 years and 5 years provides around £129K per annum in additional Council Tax income for the Council, whilst the current 200% premium on the Council's 45 properties that have been empty between 5 years and 10 years provides a further £42K per annum in additional Council Tax income. Finally, the current 300% premium on the Council's 24 properties that have been empty over 10 years provides a further £33K per annum in additional Council Tax income for the Council.
- 3.4.3 The government has indicated that it may bring forward legislation to enable the empty property premium to be charged after a property has been empty for one year (instead of the current two years). There are no further details at this stage and it is unknown when this legislation will be brought forward or any effective date for the change. It is however envisaged that the government may require a 12-month consultation phase before any change can be implemented. The recommendation in this report will allow the imposition of the increased Empty Property Premium for the 2023/24 financial year if the forthcoming legislation allows. This will align with the Council's Fairer Westminster agenda and the aim to bring empty properties back in to use.

3.5 Local Council Tax Discounts

- 3.5.1 Section 13A of the Local Government Finance Act 1992 allows a local authority the discretion to create its own "local" Council Tax discounts for local situations which are not already covered by the national statutory discounts. The government's guidance gives the example of a local discount for properties affected by flooding
- 3.5.2 Local discounts granted under Section 13A (I) (c) must be fully funded by the local authority.
- 3.5.3 It has been determined for each financial year since 2013/14 that the Director of Revenues & Benefits would be authorised to determine any individual applications from residents requiring additional assistance under the Local Discount provisions. In 2022/23 there were approved applications totalling £122k. These applications primarily related to care leavers, flood victims and vulnerable residents. It is recommended that the delegation to the Director of

Revenues and Benefits to determine individual applications is retained for 2023/24.

3.6 Council Tax Reduction Scheme

- 3.6.1 The Local Government Finance Act 2012 replaced the Council Tax Benefit scheme with a new locally determined Council Tax Reduction Scheme (also known as a local Council Tax Support scheme) from April 2013. This is effectively now a Council Tax discount.
- 3.6.2 Each local authority is required to annually set a local Council Tax Reduction scheme for working age claimants. The government continues to operate a statutory national scheme for pensioners, which provides them with broadly the same level of Council Tax Support as they received under the previous Council Tax Benefit scheme but has been adjusted by the government since its introduction to incorporate a number of welfare reform initiatives.
- 3.6.3 The local Council Tax Reduction scheme was initially funded through a specific central government grant set at 90% of each local authority's Council Tax Benefit expenditure. The government funding since 2014/15 has been rolled into the government's overall funding settlement and due to the overall cuts in funding for local government effectively increases the initial 10% funding reduction.
- 3.6.4 Since 2013/14, the City Council has agreed a Council Tax Reduction scheme which mirrored the previous Council Tax Benefit scheme, i.e. the City Council absorbed the government's 10% funding cut and did not pass the cut on to the borough's working age claimants. Technically this means that the original Council Tax Reduction Schemes (Default Scheme) Regulations are mirrored within the City Council's local scheme, with the addition that rates used to calculate the discount are uprated each year, and War Disabled Pensions, War Widow, Pensions and Armed Forces Compensation scheme payments are disregarded in full when calculating a claimant's income. It is recommended that this income disregard should also apply to Housing Benefit and claims for Discretionary Housing Payment (DHP).
- 3.6.5 It is recommended that the Council should retain the same Council Tax Reduction Scheme in 2023/24.
- 3.6.6 The Council has in previous years conducted two consultations on the Council's website in relation to the Council Tax Reduction scheme. The results were limited, but the vast majority of responses were positive. Any future change to the Council's Council Tax Reduction scheme will require a full consultation exercise.
- 3.6.7 There is no statutory requirement to consult residents where there is no significant change to a Council's existing scheme.

4. Council Taxbase

4.1 Background

4.1.1 The Council is required for Council Tax purposes to notify the preceptors and levying bodies of the Council Tax Base.

4.1.2 The position is that: -

- a) the Council must approve and notify the preceptors and levying bodies of the Council Tax Base by 31 January each year,
- b) the appropriate figure must be calculated using the Valuation List and Council Tax records as at 30 November.

4.2 The Calculation of the Taxbase

4.2.1 The calculation of the Council Tax Base is by way of a statutory prescribed formula, which is set out at Appendix 1. The legislative changes relating to the Council Tax Reduction scheme resulted in a change to the formula for 2013/14 onwards (The Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012). The change being that an estimate of the number of Band D equivalents relating to the Council Tax Reduction scheme has to be deducted from the overall taxbase. This amendment means that local authority taxbases from 2013/14 onwards are significantly lower than in previous years. However, the reduction was initially compensated for by a new Council Tax Support grant, which the government calculated based on 90% of the Council's previous Council Tax Benefit expenditure. The grant has subsequently been rolled into the government's overall funding settlement.

4.2.2 Appendix 2 shows details of the distribution of properties by Band, and the calculated equivalent Band D properties (known as the "relevant amount") within each Band after applying the formula.

4.2.3 To calculate the Council Tax Base the "relevant amount" figures for each Band have been aggregated and then adjusted to take account of the estimated collection rate and Ministry of Defence properties. The estimated collection rate used in the calculation for 2022/23 was 96%. It is recommended that this percentage should remain for 2023/24 due to the on-going reduction in collection rates nationally arising from the pandemic and the associated difficulties in accurate forecasting. If the forecast collection rate is not achieved, the under collection will be reflected in the Council Tax Collection Fund and the deficit will be shared with the GLA.

4.2.4 The Council Tax Base is calculated, for the whole of the City for 2023/24 as 135,955.46 equivalent Band D properties, for Montpelier Square 91.68 equivalent Band D properties and for Queens Park is 3,637.83 equivalent Band D properties.

- 4.2.5 The Tax Base calculation assumes that the recommendations in this report in relation to the level of Council Tax discounts (including the Council Tax Reduction Scheme) are approved.

5 Financial Implications

- 5.1 The 2023/24 tax base shows a growth of 0.67% when compared with the 2022/23 tax base. The growth will deliver around £418K in additional Council Tax income in 2023/24 for the Council.
- 5.2 The Council's decision in 2013/14 to implement a Council Tax Reduction Scheme which mirrored the previous Council Tax Benefit Scheme, effectively meant that the Council had to absorb the government's 10% cut in funding for the Council Reduction Scheme arrangements. However, the increased Council Tax income derived from the Council Tax discount changes implemented in 2013/14 more than covered the shortfall. This remains the case in 2023/24.
- 5.3 The Business Rate Retention scheme introduced within the Local Government Finance Act 2012 replaced the previous Formula Grant scheme from 1 April 2013. The Retention scheme Funding Baseline was scheduled to be recalculated for the planned scheme Reset in 2020. However, the government's Fair Funding Review, including the funding baseline, and the review / revision of the national Business Rate Retention scheme, has been deferred, partly due to the pandemic and will not now take place in time for the 2023/24 financial year. Therefore, the changes in the Council's Tax Base will not have an effect on the Council's grant funding position for 2023/24.
- 5.4 On 1st October 2013 the Council made the City of Westminster (Reorganisation of Community Governance) Order 2013. This created a new parish of Queen's Park from 1st April 2014. The Queen's Park Community Council was elected on 22nd May 2014 and became a precepting authority. The Queen's Park taxbase of 3,637.83 equivalent Band D properties will result in an overall Council Tax income for the Community Council in 2023/24 (based on the existing precept level) of around £172K.

6. Legal Implications

- 6.1 The legal implications are outlined in the body of the report. There have been no relevant changes in legislation since last year's report.

7 Ward Members Comments

- 7.1 As this report relates to all wards, no Ward Member consultation was required.

7.2 The Ward Members for Queens Park were originally consulted as part of the City of Westminster (Reorganisation of Community Governance) Order 2013.

8 Outstanding Issues

8.1 There are no outstanding issues.

9. Reasons for Decision

9.1 The taxbase decision is sought in order that the Council complies with the requirements of the Local Government Finance Act 1992.

9.2 The retention of the same levels of Council Tax discount, for empty properties and second homes will continue to deliver additional Council Tax income for the Council without disadvantaging any vulnerable members of the community.

9.3 The recommendation to allow the Director of Revenues and Benefits to continue to determine any individual local discount claims will enable assistance to be given to individual Council Taxpayers. This will provide the mechanism for granting the local Council Tax discount for Care Leavers, flood victims and other vulnerable Council Taxpayers.

9.4 The Council's proposed 100% Council Tax Reduction Scheme will mean that the level of Council Tax support provided to the borough's working age claimants will effectively mirror that previously provided under the national Council Tax Benefit scheme.

9.5 The recommendation to continue the Long-Term Empty Property Premium at the maximum allowed for within current legislation aligns with the Council's Fairer Westminster agenda and the aim to bring empty properties back in to use.

10. Background Papers

10.1 There are no additional background papers.

IF YOU HAVE ANY QUESTIONS ABOUT THIS REPORT PLEASE CONTACT
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APPENDIX 1 – Taxbase Formula.

Formula for calculating the Council Tax Base.

For 2023 / 2024 the “relevant amount” for each band is to be calculated in accordance with the formula:

$$((H - Q + E + J) - Z) \times F / G$$

where:

H is the number of chargeable dwellings on the list on the relevant day, (30 November 2022) less an estimate of the number which are exempt.

For these purposes the authority is to take account of any alterations to the list which were shown as having effect on that day, or of any alterations which, though not shown on the list, the authority has been informed of by the Listing officer and had effect on that day. The authority is also to take account of the effect of the regulations under section 13 of the 1992 Act (“disabled reductions”), treating a dwelling as being in the band in respect of which the reduced amount is calculated.

Q is a factor to take account of the discounts to which the amount of council tax payable was subject on the relevant day based on the relevant discount percentage(s).

E is an adjustment to reflect any Council Tax Premium for long term empty properties.

J is an adjustment (positive or negative) in respect of changes in the number of chargeable dwellings or discounts or premiums during the period from the relevant day (i.e. 30 November 2022) to 31 March 2024 calculated as the difference between:

- (i) an estimate of the number of full year equivalent chargeable dwellings not on the list on the relevant day (30 November 2022) but which will be listed in that band for the whole or part of the year, plus
- (ii) an estimate of discounts which are estimated to be applicable on the relevant day, but which will not be applicable for the whole or part of the year, expressed as a full year equivalent number, based on the relevant discount percentage(s).
- (iii) an estimate of the aggregate of the number of chargeable dwellings which are on the list on the relevant day, but which will not be during the year, or part of the year, and the number which are not exempt on the relevant day, but which will be during the year or part of the year, plus
- (iv) the authority’s estimate of the number of discounts, other than those in the formula above, to which Council Tax dwellings calculated for item (H) in the formula above, will be subject for the whole or part year (based on the relevant discount percentage (s)).

Z is the total amount that the authority estimates will be applied pursuant to the authority's council tax reduction scheme in relation to the band, expressed as an equivalent number of chargeable dwellings in that band.

F is the amount of Council Tax payable in respect of dwellings situated in the same billing authority's area (or the same part of such an area) and listed in different valuation bands in the following proportions: -

5 : 6 : 7 : 8 : 9 : 11 : 13 : 15 : 18

where 5 is for band A (Disabled), 6 is for band A, 7 is for band B etc.

G is the number applicable to band D (i.e. 9).

Full Year Equivalents.

Where an authority estimates that discounts / exemptions etc. will apply for only part of the year, or that the dwelling will only be banded for part of the year, the full year equivalent must be calculated for the purposes of the above formula. This will be the number of days for which the dwelling is banded / exempt etc. divided by the number of days in the year.

Appeals.

For the purpose of calculating the Tax Base an authority may estimate the number of appeals against banding that may have an effect on the number of properties within each band.

Council Tax Base.

In order to calculate the Council Tax Base, the "relevant amount" for each band is aggregated and the sum multiplied by the Council's estimated collection rate. An adjustment is made to this figure in respect of MOD property in the area.

MOD Adjustment.

This adjustment is an amount, estimated to be equivalent to the number of Band D dwellings, in respect of where a contribution in lieu of Council Tax is to be made by the Ministry of Defence for Class O (exempt) dwellings.

APPENDIX 2. - Tax base Calculations for 2023/24

TAXBASE FOR THE WHOLE CITY.

| DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.22 FOR THE WHOLE CITY. | EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$ |
|---|--|
| BAND A : 1,736 | BAND A : 956.50 |
| BAND B : 6,509 | BAND B : 4,118.72 |
| BAND C : 15,772 | BAND C : 11,848.89 |
| BAND D : 22,811 | BAND D : 19,713.75 |
| BAND E : 24,179 | BAND E : 25,644.97 |
| BAND F : 18,956 | BAND F : 24,114.28 |
| BAND G : 24,128 | BAND G : 36,163.75 |
| BAND H : 16,643 | BAND H : 31,512.50 |
| Total : 130,734 | Total : 154,073.36 |

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|-----------------------------------|
| Less Z - = 12,934.76 = 141,138.60 |
| X Collection Rate (96%) |
| Plus MOD Adjustment + 462.40 |

TAXBASE = 135,955.46

APPENDIX 2.

TAXBASE FOR MONTEPELIER SQUARE ONLY.

| DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.22. | EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$ |
|---|---|
| BAND A : 0 | BAND A : 0.00 |
| BAND B : 0 | BAND B : 0.00 |
| BAND C : 0 | BAND C : 0.00 |
| BAND D : 1 | BAND D : 1.00 |
| BAND E : 0 | BAND E : 0.00 |
| BAND F : 0 | BAND F : 0.00 |
| BAND G : 3 | BAND G : 5.00 |
| BAND H : 47 | BAND H : 89.50 |
| Total : 51 | Total : 95.50 |

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|---------------------------------|
| Less Z = 0.00 |
| Plus MOD Adjustment = + 0.00 |
| X Collection Rate (96%) = 91.68 |

TAXBASE = 91.68

APPENDIX 2.

TAXBASE FOR QUEENS PARK COMMUNITY COUNCIL.

| DISTRIBUTION OF PROPERTIES BY BAND AS AT 30.11.22 FOR QUEENS PARK PARISH. | EQUIVALENT BAND "D" PROPERTIES FOR EACH AFTER APPLYING THE FORMULA $((H - Q + E + J) - Z) \times F / G$ |
|---|--|
| BAND A : 63 | BAND A : 34.67 |
| BAND B : 274 | BAND B : 181.22 |
| BAND C : 849 | BAND C : 637.56 |
| BAND D : 1,946 | BAND D : 1,722.00 |
| BAND E : 1,898 | BAND E : 2,102.53 |
| BAND F : 253 | BAND F : 337.64 |
| BAND G : 53 | BAND G : 82.92 |
| BAND H : 3 | BAND H : 6.00 |
| Total : 5,339 | Total : 5,104.53 |
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|-----------------------------|
| Less Z = 1,315.12 = 3789.41 |
| X Collection Rate (96%) |
| |
| Plus MOD Adjustment + 0.00 |

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|---------------------------|
| TAXBASE = 3,637.83 |
|---------------------------|