THE DEED RECORDATION AND REAL PROPERTY TRANSFER TAXES

IN THE DISTRICT OF COLUMBIA:

A COMPARATIVE ANALYSIS OF THEIR RATES, RATIONALE, STRUCTURE, AND IMPLEMENTATION

WITH POLICY OPTIONS

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1. Executive Summary

The District of Columbia charges a Deed Recordation Tax (DRT, or recordation tax) and a Real Property Transfer Tax (PTT, or transfer tax) when real property is sold. DC also charges a DRT when (1) a commercial property is refinanced for more than the current balance on outstanding loan(s) on such property, and (2) a residential property with five or more units is refinanced.

Some Key Facts:

1. DC's transfer and recordation tax rates are
    a. 5 to 6 times higher than rates in nearby Virginia counties and cities
    b. 85% to 193% of rates in nearby Maryland counties
    c. 36% of rates in New York City
    d. 111% and 162% of rates in San Francisco and Seattle, respectively
2. DC Recordation and Transfer tax revenues are volatile both absolutely and as a share of the District's tax revenue (from 3.5% to 8.6% over the past 13 years).
3. 15% of DC Recordation and Transfer tax revenues are earmarked for the DC Housing Production Trust Fund that subsidizes affordable housing development.
4. In Fiscal Year 2012, the District collected $163 million in DRTs and $122 million in PTTs, for a total of $285 million, or 4.8% of total taxes collected. In fiscal Year 2012 there were $4,2 billion in both office and housing sales for total property sales of $8.4 billion accounting for 67% of the DRT and 100% of PTT totals..

Rates in the District of Columbia: The rate for each tax is 1.45% (2.9% total) for all commercial properties and for those residential properties sold for $400,000 or more. Residential properties that are sold for less than $400,000 pay a 1.1% tax for both recordation and transfer (2.2% total). Thus, there is a dramatic "bump up" in taxes for properties that cross the $400,000 threshold of approximately $3,000 (e.g., from $8,800 for a property valued at $399,999 to $11,600 for a property valued at $400,000).

Rates in the District of Columbia Compared to Other Jurisdictions: The District has higher rates of taxation on property transfers than do its close neighbors, with a combined rate of 2.9%. Transfers in Virginia localities face a combined rate of only 0.433%, while those in Maryland face rates ranging from 1.5% to 2.45%. Other states vary considerably in their use of recordation and transfer taxes, with several western states having none. Most are below the District's rates.

An exception is New York City, where the combined rates of local and state recordation and transfer taxes is over 8%, close to triple that of the District.

Earmarking: The District sets aside 15% of the tax receipts from these taxes for the Housing Production Trust Fund (HPTF) which was established to increase the amount of affordable housing in the District by providing support for low-income households through nonprofit housing developers. Earmarking is widespread in the District, with eleven separate earmarks from tax revenues for specific programs ranging from the baseball stadium and convention center to ensuring liquidity to the Tax Increment Financing program. Earmarking is also widespread throughout the nation for affordable housing production, with such funds in 17 states.

Economic Impacts of the DRT and PTT—Housing: In housing markets generally, the taxes are generally capitalized in the price of the property, which means that the net price received by the seller will generally be reduced by the full amount of the tax. In the District, given the intense current demand for housing by buyers, some of the tax may also be paid in the form of a higher price than would have been paid by the buyers in the absence of a tax, changing the incidence somewhat. The impacts on buyers and sellers of the added costs of taxes would tend to marginally reduce the level of transactions. However, the change in monthly payments associated with a movement from no taxes to both taxes (in the case of a buyer who takes on the entire burden of both taxes in a property with a mortgage of $300,000 at 4%) would be approximately $40 ($1,790 with no taxes versus $1,830 with both taxes). For 2012, the impact of increases in the taxes by one percent would be about 16 fewer home sales out of the 7,904 sales.

Economic Impacts of the DRT and PTT--Offices: The office market, unlike the housing market, is both national and global. It is a major investment market, with office structures included in REITs and other financial instruments. Taxes levied on such structures are paid by investors all over the globe. From the standpoint of raising funds for city services for all of its citizens, such investment properties seem like an attractive source of tax revenues with few negative local economic consequences.

Progressivity for Housing: Assuming that the home buyer pays the recordation tax, it would, in general, be regressive because lower-income persons would pay a higher percentage of their income for the same property. The District has been sensitive to such regressivity by setting the rates lower for lower cost housing. It has also provided several exemptions to reduce the impact of the tax on low-income households.

Policy Options:

1. Abolish the recordation and/or transfer tax(es) or reduce it/them severely. The impact of this action would be to increase the net price that sellers of housing real estate receive by a modest amount approximately equal to the tax. This action would also provide a windfall for buyers of major office buildings approximately equal to the more substantial foregone tax. Such a policy would have reduced tax revenues to the city in 2012 by $163 million for the recordation tax and $121 million for the transfer tax, for a total of $284 million. This action would destabilize the Housing Production Trust Fund and its historically strong leverage of private dollars unless an alternative dedicated source could be found.

2. Increase the commercial rates for high-end properties. The current estimate of $121 million of tax revenues from the commercial sector, which is dominated by large, high-end office buildings, could be increased substantially if a separate, higher, rate were imposed for this sector. Increasing the rate from 2.9% to 4.9% would generate an additional $83 million in tax revenues for the city. It is unlikely that such a tax increase would damage the local economy in any significant way. (The combined rate in New York City is 8.125%, the highest of all U.S. cities).

3. Eliminate the "bump up" in recordation and transfer taxes levied at $400,000 in housing value. This recommendation would help avoid price manipulation around the $400,000 level The bump could be eliminated by making the higher rate of 2.9% apply only to that part of the value of the housing unit that exceeded or equaled $400,000. This action would have reduced tax revenues in 2012 by about $5.6 million. A modest upward adjustment to the tax rates could be made to maintain revenue neutrality if desired.

4. Increase individual progressivity. Some structural adjustments in the two taxes could achieve greater progressivity. Such steps could include: (a) The low-income level at which exemptions from the tax rates currently become applicable could be increased from 120% to 200% of U.S. HUD's lower income guidelines for the District; (b) all first-time home buyers could be exempted or face a reduced rate; (c) raising the maximum tax rates on higher priced residential and commercial properties; and (d) expanding the number of rate brackets for the housing market, assigning steadily rising tax rates to the brackets, making them applicable only to the marginal increases in housing value to avoid distorting “bump-ups”, and indexing them to inflation.

Conclusion: The District of Columbia charges a higher tax rate on property transfers than do surrounding jurisdictions, yielding about 5% of the total tax revenues collected in the city. The District sets aside 15% of these revenues to support the Housing Production Trust Fund to strengthen the development of affordable housing in the District. Some changes in these taxes may be desirable. Modifying the tax code to eliminate the price-distorting “bump” at $400,000 would be helpful. Also, taking fuller advantage of national and global interest in the District’s office market by augmenting taxes for such properties could provide enhanced revenues with little downside impact. In the final analysis, recordation and transfer taxes are modest one-time levies. Adjustments in them will have only modest impact on the economic development of the city.

2. Introduction

In the present report, the Deed Recordation tax (DRT or recordation tax) and the real property transfer tax (PTT or transfer tax) in the District of Columbia are considered. These taxes are assessed when real property is sold or when the refinancing of a property is recorded. It applies to both residential and commercial property.

In Section 2, the mechanics of the DRT and PTT are explained, and the legislative history of these taxes will be summarized. In Section 3, a comparison of these taxes with similar taxes levied by other jurisdictions will be made. In Section 4, earmarking of a portion of these revenues will be addressed comparatively, with special emphasis on the earmarking of a portion of these taxes in the District of Columbia for the Housing Production Trust Fund. Section 5 includes an analysis of the impact of these taxes on issues of tax incidence and its impact on the housing and office market, and relative progressivity of the taxes. Section 6 provides policy options. Section 7 provides a brief conclusion.

3. Deed Recordation and Transfer Tax Legislation in the District of Columbia

The District of Columbia has both a deed recordation tax and a real property transfer tax. These taxes are imposed on any instrument which creates a security interest in District of Columbia real estate (such as a mortgage) and applies to both residential and commercial properties. As a result, any deed of trust, mortgage or Uniform Commercial Code (UCC) financing statement covering fixtures will be subject to the tax.[1]

When property changes hands, the base on which the taxes are computed is the consideration of the property (the amount paid). Where there is no consideration or where the amount is nominal, the base for tax computation is the fair market value (the assessed value) of the property. In refinancing commercial transactions, taxes are computed on the difference

[1] The law authorizing the DRT may be found at § 314 of Pub. L. 87-408, approved March 2, 1962, as amended, D.C. Code § 45-937 (1981 Ed.); see also 9 DCMR Chapter 5. The law authorizing the PTT may be found at § 416 of the District of Columbia Revenue Act of 1980, D.C. Law 3-92 as amended, D.C. Code § 47-916 (1981 Ed.); see also 9 DCMR Chapter 6.

between the face amount of the refinance instrument and the outstanding principal amount of existing debt under the prior security interest instrument. The same applies for residential properties, except that properties with fewer than five residential units are exempt. The trigger for the two taxes is the recordation of a deed. The taxes are paid at the same time the deed is submitted for recordation, or within 30 days of the transaction.

Currently, both the DRT and PTT tax rates are 1.1% of consideration for residential properties that sell for less than $400,000. For all commercial properties and for all residential properties sold at $400,000 or more, the DRT and PTT tax rates are 1.45% of consideration.

Since 1962, there have been several changes to the legislation affecting both the recordation and transfer taxes. In 1976 the tax rate was increased from 0.5% to 1.0% of consideration. In 1989 the tax rate was increased from 1% to 1.1% of consideration. In 2003 an Act was passed for 15% of DRT and PTT revenues to be deposited in Housing Production Trust Fund (HPTF) as a measure to enhance the development of affordable housing. The stated reason for this was the widespread market rate housing redevelopment emerging throughout the city that seemed to be having negative impacts on longstanding low-income residents of the city. Also, as a result of a shortfall in revenues in the city, the tax rates were temporarily increased that year from 1.1% to 1.5%. This higher rate did not apply to residential properties sold for under $250,000. The Fiscal Year 2005 Budget Support Act of 2004 decreased the DRT and PPT rates from 1.5% back to 1.1% effective October 2004. In 2006 DRT and PPT rates were increased to 1.45% for all commercial properties and for those residential properties sold for $400,000 or more. Residential properties valued at less than $400,000 were still taxed at 1.1%.

In addition to the DRT and the PTT, the District of Columbia charges a recording fee of $290 for recording deeds, deeds of trust, and other instruments of record.

In the DC FY 2013 Budget Support Act, the tax legislation was amended primarily to clarify that, in refinancing, the two taxes would be collected only on the excess of the principal amount of the refinance Deed of Trust (DOT) over the principal balance due on the existing debt under the prior DOT, as long as the prior DOT was exempt from taxation or the taxes due on the prior DOT were paid. This clarification took effect on October 1, 2012.

The city has experienced no significant difficulty in collecting these taxes since most property sales include bank mortgages. Banks typically wish to complete all aspects of the transaction and record the property transfers quickly to preserve their interest in the property (Muhammed to Green, 2013).

4. A Comparative Review of Deed Recordation Taxes and Property Transfer Taxes

Deed Recordation Tax and Real Property Transfer Tax in the District of Columbia

The revenues from the two taxes have tracked each other fairly closely over the past decade (see Table 1).

Table 1
Annual Tax Revenue for D.C.
Deed Recordation and Property Transfer Taxes
($ in 000's)

Financial Year	Deed Recordation	Property Transfer	Total
2000 (10/1/99-9/30/00	$60,418	$44,660	$105,078
2001	$75,936	$62,086	$138,022
2002	$89,951	$62,228	$152,179
2003	$139,262	$99,052	$238,314
2004	$193,554	$143,232	$336,786
2005	$190,048	$146,929	$336,977
2006	$197,528	$132,615	$330,143
2007	$226,743	$152,411	$379,154
2008	$155,974	$112,434	$268,408
2009	$100,764	$78,262	$179,026
2010	$113,198	$94,202	$207,400
2011	$164,572	$131,710	$296,282
2012	$163,393	$121,515	$284,908

Source: OCFO, Comprehensive Annual Report for 2002-2012, Statistical Section

There was a sharp increase in collections in 2003 during the bull market in housing, followed by a major reduction in 2009 following the massive correction associated with the housing crisis. Table 1 shows the significant volatility of these tax revenues. The annual revenue from these two taxes as a percentage the District's tax revenues fluctuated widely as well (see Table 2). Up to 2002 the DRT and PTT revenue comprised less than 5% of the total tax revenue; the proportion peaked in 2004 and 2007 around 8%, falling back to its earlier level in 2008.

The volatility of these tax revenues, as reflected in Table 2, is due to their dependence on the performance of the housing market. Tax revenues and aggregate sales values for both office buildings and housing closely track each other and are significantly correlated (see Table 3).

Table 2

Recordation and Transfer Tax Revenues as Percent of DC Tax Collections

Year	Percent
2000	3.47
2001	4.30
2002	4.83
2003	7.24
2004	8.60
2005	7.79
2006	7.34
2007	7.31
2008	4.97
2009	3.60
2010	4.15
2011	5.27
2012	4.75

Source: OCFO, Comprehensive Annual Report for 2002-2012, Statistical Section

Table 3 Sales and Tax Revenues ($ 000's) with Correlations			
	Major Office Building Sales	**Housing Sales**	**Tax Revenue[a]**
2000	1,238,570	2,052,132	$105,078
2001	1,700,750	2,403,362	$138,022
2002	1,770,330	2,935,397	$152,179
2003	2,826,050	3,369,224	$238,314
2004	3,028,730	4,201,151	$336,786
2005	4,575,540	4,944,401	$336,977
2006	3,964,320	4,239,737	$330,143
2007	3,155,390	4,070,401	$379,154
2008	2,261,000	3,305,508	$268,408
2009	1,266,030	3,671,237	$179,026
2010	2,927,940	3,645,593	$207,400
2011	3,174,860	3,674,668	$296,282
2012	4,166,470	4,236,493	$284,908
	Pearson's r = -0.81 (p =. 0008)	Pearson's r = -0.86 (p = 0002)	
Source: Delta Associates, 4th Quarter Reports, 2000-2012; OCFO/Government of the District of Columbia, computations done from Metropolitan Regional Information Systems, Inc.			

Deed Recordation and Property Transfer Taxes in Maryland and Virginia

The District has higher rates of taxation on property transfers than do its close neighbors, although the DC combined rate is only modestly higher than those in Maryland counties.

Maryland has a recordation tax rate of between 0.5% and 1.0% as well as a state transfer tax rate of 0.5% of the consideration payable. First time home buyers are exempt from their 50% share of the transfer tax, so the effective rate of the state transfer tax is lowered to 0.25% for such transactions. The recordation tax rate for localities ranges from 0.5% in Baltimore County and Howard County to 1.2% in Frederick County (see Table 4).

The state of Maryland has a real property transfer tax rate of 0.5% of the consideration payable. These levies are supplemented by a local option transfer tax for "home rule" counties

(Caroline, Charles, Kent, Queen Anne's and Worcester, none close to the District) that cannot exceed 0.5%.

When refinancing properties in Maryland, only recordation taxes are collected. These taxes are collected on the difference between the principal of the existing loan being paid off and the principal of the new loan. However, in the case of an investment property or second home, the tax is charged on the entire new loan. The consideration includes the amount of any mortgage or deed of trust assumed by the grantee.

For Virginia the state recordation tax rate is \$0.25 on every \$100 (0.25%) of consideration. In addition to the state recordation tax, the council of any city and the governing body of any county may impose a city or county recordation tax equal to 33.3% of the amount of the state deed recordation tax (0.083% of consideration). In 2012, the Virginia recordation tax code was revised to eliminate the exemption for amounts refinanced with the same lender. Instead the state recordation tax on all refinance deeds of trust has been reduced from \$0.25/100 (0.25%) to \$ 0.18/100 (0.18%). On the other hand, the seller (or *grantor*) must pay a grantor tax (similar to the DC real property transfer tax) of \$0.50 for each \$500 (0.1%) on each deed, instrument, or writing transferred exclusive of the value of any lien or encumbrance remaining at the time of the sale.

Refinancing

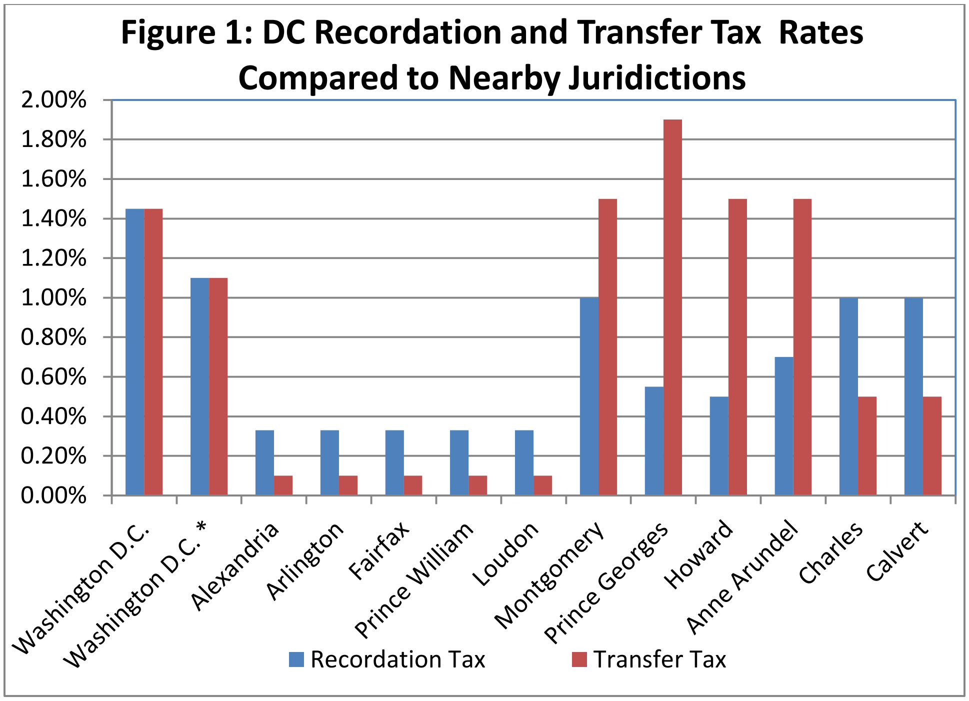
In D.C., as noted above, the deed recordation tax must also be paid on the increased value when commercial property is refinanced. In the case of a refinance transaction, such an instrument is taxed on the difference between the face amount of the refinance instrument and the outstanding principal amount of existing debt under the prior security interest instrument. This regulation is the same in Maryland. In Virginia, an amendment to the code that took effect on July1, 2012 removed an exemption that limited the application of the deed recordation tax to the amount of new money borrowed in a refinance with an existing lender. The amendment subjects the entire amount secured by the new deed of trust to a recordation tax.

Comparison of Tax Rates in D.C. and Nearby Jurisdictions

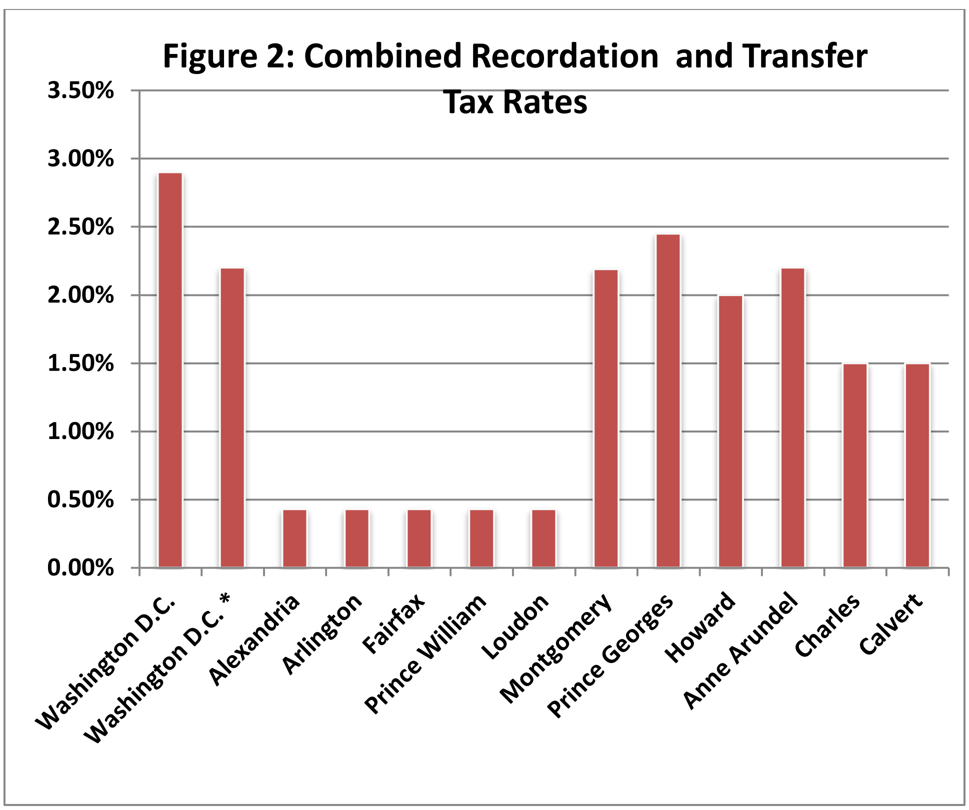
The District generally charges higher tax rates than nearby localities (see Table 4 and Figures 1 and 2). The recordation tax rate is about three times higher than those in Virginia localities and about two times higher than Maryland localities. Only Charles and Calvert Counties come close to the District's rate. The complementary transfer tax in the District is almost three times higher than the comparable tax rates in Virginia localities. The transfer tax rates in the District and in Maryland localities are, in contrast, quite close. The combined tax rates for Maryland localities, reflected in Table 4 and Figures 1 and 2, are closer to that for the District than are the rates for Virginia localities.

Table 4: DC and Nearby Localities Recordation and Transfer Taxes				
	Locality	**Recordation Tax**	**Transfer Tax**	**Total***
Washington DC	Residential <$ 400,000	1.10%	1.10%	2.20%
	Res >$400,000 and all Commercial	1.45%	1.45%	2.90%
Virginia Virginia taxes include 0.25% state recordation tax and 0.1% state transfer tax	Alexandria	0.083%	-	0.433%
	Arlington	0.083%	-	0.433%
	Fairfax	0.083%	-	0.433%
	Prince William	0.083%	-	0.433%
	Loudon	0.083%	-	0.433%
Maryland Maryland taxes include 0.5% state transfer taxes	Montgomery Res<$500,000	0.69 %**	1.00%	2.19%
	Montgomery Res=>$500,000	1.00%**	1.00%	2.50%
	Prince Georges	0.55%	1.40%	2.45%
	Howard	0.50%	1.00%	2.00%
	Anne Arundel	0.70%	1.00%	2.20%
	Charles	1.00%	-	1.50%
	Calvert	1.00%	-	1.50%

* Local and state tax rates combined.
** The first $50,000 of is exempt from recordation tax if home is purchaser's principal residence.



*For residential property with a value under $400,000



*For residential property with a value under $400,000

The Deed Recordation and Real Property Transfer Rates Nationally

There is considerable diversity among the states in their use of recordation and transfer taxes (see Table 5). There are 14 states that do not charge either of these real estate taxes: Alabama, Arizona, Idaho, Indiana, Louisiana, Mississippi, Missouri, Montana, New Mexico, North Dakota, Oregon, Texas, Utah and Wyoming. Demonstrating the political volatility of this issue, in four of these states (Louisiana, Missouri, Montana and Oregon) the state-wide realtor associations worked hard, and successfully, to pass constitutional bans on transfer taxes (Mellen, 2012). Only eleven of the remaining 37 states charge specific recordation taxes although all of the 37 charge one or the other or both taxes (see Table 5).

Many cities and counties have additional recordation and transfer taxes that increase the effective tax burden on real estate transactions. The rates for selected cities added to the state levies bring many levies closer to and in some instances above that experienced in real estate transactions in the District of Columbia.

Examples of Variations in Tax Levies

Consider the absolute magnitude of the two taxes by observing the variation in tax levies in actual dollar payments for the District of Columbia and nearby jurisdictions for houses sold at different prices (see Table 7).

For lower priced houses (e.g., $300,000), the District tax bill would be $6,600 while in Alexandria it would be $1,300 or about 20% of the District tax bill. Montgomery County's tax bill would be roughly equivalent to the District's, while Prince George's would be higher. For such lower cost housing units, New York's recordation tax bill would be 63% higher than the District's, but its lower transfer tax level means that its overall tax bill would be 17% lower than the District's. At the higher end (property worth $1.2 million), New York's tax bill is higher than the District's; Alexandria's bill is only 29% of the District's for such a property, while Montgomery County's tax bill is 76% of the District's level. For more highly valued commercial property ($5,000,000), the District's bill would be $145,000 compared to only $41,500 for Alexandria and $109,500 for Montgomery County. For such a property, Prince George's County's tax bill would be lower than the District's by $22,500.

Table 5 Recordation and Transfer Tax Rates and Total, by State (in percentages)			
	Recordation Tax Rate	Transfer Tax Rate	Combined Recordation and Transfer Tax Rate
Alabama	0.10		0.10
Arkansas		0.33	0.33
California		0.11	0.11
Colorado		0.01	0.01
Connecticut		1.11	1.11
Delaware		1.50-2.00	1.50-2.00
District of Columbia	1.45	1.45	2.90
Florida	0.70 -1.05[a]		0.70 -1.05
Georgia	0.015	0.10	0.115
Hawaii		0.10-1.00	0.10-1.00
Iowa		0.16	0.16
Illinois		0.10	0.10
Kansas		0.26	0.26
Kentucky		0.10	0.10
Massachusetts		0.456	0.456
Maryland	0.50-1[b]	0.50	1.00-1.50
Maine		0.44	0.44
Michigan		0.75	0.75
Minnesota	0.23	0.33	0.33
North Carolina		0.20	0.20
Nebraska		0.225	0.225
New Hampshire		0.75	0.75
New Jersey		0.25-0.93[c]	0.25-0.93
Nevada		0.39-0.54[d]	0.39-0.54
New York State	0.75-1.30 [e]	0.40-1.40	1.15-2.70
Ohio		0.30	0.30
Oklahoma		0.15	0.15
Oregon		<$27 flat rate	<$ 27
Pennsylvania		1.00	1.00
Rhode Island		0.40	0.40
South Carolina	0.37		0.37
South Dakota		0.10	0.10
Tennessee	0.37		0.37
Vermont		1.25	1.25
Virginia	0.25-0.33	0.10[f]	0.35-0.43
Washington		0.25	0.25
Wisconsin		0.30	0.30
West Virginia		0.22	0.22

[a]Florida counties may enact an additional surtax. [b] Maryland recordation rate varies across counties. [c] New Jersey has multiple realty fees charged at state and county level and based on the value of the deed. [d] Nevada tax rate varies across counties. [e] New York has multiple rates apply depending on value, use, type of housing unit and metropolitan area. City and state taxes are included. New York titles its tax a mortgage recordation tax, not a deed recordation tax. [f] Virginia has a state tax that varies with value of consideration and cities may impose an additional amount of 33.3% for recordation.

Source: Lincoln Institute for Land Policy

Table 6 Recordation and Transfer Tax Rates, Selected Cities (in percentages)				
	Recordation Tax Rate	**Transfer Tax Rate**	**State rates**	**Combined Recordation and Transfer Tax Rate**
Atlanta	0.30		0.115	0.415
Boston				0.46
Chicago		1.05	0.10	1.15
Dallas				0
District of Columbia			2.20-2.90	2.20-2.90
Houston				0
Los Angeles		0.45	0.11	0.56
New York City	1.75-2.8	1.0-2.625	1.15-2.70	3.90-8.125
Philadelphia		0.30	0.10	0.40
San Francisco		0.50-2.50	0.11	0.61-2.61
Seattle		0.50	1.28	1.78

Of particular interest is the dramatic, discontinuous upward bump in the tax costs associated with houses that reach or exceed the $400,000 value threshold. The District increases the combined recordation and transfer taxes on the full value of the house from 2.2% to 2.9%. The difference between the tax burden for a house that sells for $399,999 ($8,800) and for a house that sells for $400,000 ($11,600) is almost $3,000 for a one dollar increase in value.

Table 7 Hypothetical Recordation and Transfer Taxes on Properties Based on Assessed Values: The District and Selected Localities							
		Hypothetical Residential House Value					
Jurisdiction	**Tax**	**$300,000**	**$399,999**	**$400,000**	**$600,000**	**$1,200,000**	**$5,000,000**
Wash., D.C.	Recordation	$3,300	$4,400	$5,800	$8,700	$17,400	$72,500
	Transfer	$3,300	$4,400	$5,800	$8,700	$17,400	$72,500
	Total	**$6,600**	**$8,800**	**$11,600**	**$17,400**	**$34,800**	**$145,000**
Alexandria	Recordation	$1,000	$1,332	$1,322	$2,000	$4,000	$16,650
	Transfer	$300	$400	$400	$600	$1,200	$5,000
	Total	**$1,300**	**$1,732**	**$1,732**	**$2,600**	**$5,200**	**$21,650**
Arlington	Recordation	$1,000	$1,332	$1,322	$2,000	$4,000	$16,650
	Transfer	$300	$400	$400	$600	$1,200	$5,000
	Total	**$1,300**	**$1,732**	**$1,732**	**$2,600**	**$5,200**	**$21,650**
Fairfax	Recordation	$1,000	$1,332	$1,322	$2,000	$4,000	$16,650
	Transfer	$300	$400	$400	$600	$1,200	$5,000
	Total	**$1,300**	**$1,732**	**$1,732**	**$2,600**	**$5,200**	**$21,650**
Montgomery	Recordation	$2,070	$6,000	$6,000	$6,000	$12,000	$50,000
	Transfer	$4,500	$2,760	$2,760	$9,000	$18,000	$75,000
	Total	**$6,570**	**$8,760**	**$8,760**	**$15,000**	**$30,000**	**$125,000**
Prince George's	Recordation	$1,650	$2,200	$2,200	$3,300	$6,600	$27,500
	Transfer	$5,700	$7,600	$7,600	$11,400	$22,800	$95,000
	Total	**$7,350**	**$9,800**	**$9,800**	**$14,700**	**$29,400**	**$122,500**
Charles	Recordation	$3,000	$4,000	$4,000	$6,000	$12,000	$50,000
	Transfer	$1,500	$2,000	$2,000	$3,000	$6,000	$25,000
	Total	**$4,500**	**$6,000**	**$6,000**	**$9,000**	**$18,000**	**$75,000**

5. Earmarking and the Deed Recordation and Property Transfer Taxes

An important feature of the D.C. recordation and transfer tax system is that 15% of the revenues generated by these taxes are earmarked for the city's Housing Production Trust Fund (HPTF). The purpose of the HPTF is to support affordable housing development. Is earmarking an appropriate way to fund specific projects?

Economists have debated the economic appropriateness of linking specific tax levies to specific expenditure streams. Many economists believe that earmarking is in principle inefficient because it restricts the ability of a government to most efficiently allocate all its revenues to the places it decides provide the greatest public benefit. In this view, all tax monies should be channeled to the general fund. On the other hand, some economists argue that certain public purposes should have dedicated funding streams to promote continuity and better long-term planning. They argue that greater certainty of revenues to particular purposes will provide more deliberate and stable decision making by the private and public sectors, avoiding the volatility that can accompany a changing political landscape with its associated changing funding priorities.

It turns out that earmarking is widespread both in the District and nationwide. But recently, an Alexandria city council person has objected to an earmark of the Alexandria property tax for their affordable housing fund on the basis that it fragments local government budgeting processes, suggesting that the case for earmarking has not been fully accepted (Sullivan, 2013).

Dedicated (Earmarked) Taxes in D.C.

Tax revenues that are earmarked for particular purposes are not available for general budgeting across the full range of agencies, programs and services provided by the D. C. Government. The District has ten dedicated, or earmarked, taxes, and many more in the past, suggesting that earmarking is a broadly used technique to ensure stable funding for specific public purposes in the District of Columbia. These include the following:

1. Housing Production Trust Fund (2002).
2. Washington Convention Center Fund (1994). The purpose of this fund is to pay for the costs of operating the Walter E Washington Convention Center.
3. Tax Increment Financing and Pilot Transfer (1998) -- The purpose of the fund is to set aside the tax increment revenue that is needed to pay the debt service on TIF bonds, establish and maintain TIF reserves, and defray development costs. The fund receives the incremental real property tax or sales tax revenue generated by a TIF project, which are used to repay the TIF bonds. Any amount remaining in the tax increment accounts for a TIF area at the end of each year revert to the general fund (net of service payments).
4. Neighborhood Investment Fund (2004) -- Created to fund development and implementation of neighborhood investment plans and to finance and assist revitalization

activities that will benefit residents of target neighborhoods. The fund receives 17.4% of personal property taxes. *Future transfers including FY 2012 have been suspended.*

5. Ballpark Revenue Fund (2005The fund pays for the debt service on the District's baseball stadium revenue bonds.
6. Highway Trust Fund (1997) -- Purpose is to finance the District's required match for federal highway aid. Fund revenue is from the District's motor fuels tax.
7. Stevie Sellows Quality Improvement Fund (2006) -- Purpose of the fund is to fund quality of care improvements. The primary source of revenue for the Fund is an assessment of 5.5 % of annual gross revenue of each ICF/MR.
8. Healthy D.C. and Health Care Expansion Fund (2007) -- The purpose is to provide affordable health care to eligible D.C. residents. Revenue sources include the insurance premium taxes paid by health insurers and health maintenance organizations.
9. Hospital Fund (2010). The funds are used to fund District state Medicaid services
10. Nursing Homes Quality of Care Fund (2004)--Purpose is to finance quality of care initiatives at District of Columbia nursing facilities. Primary source of revenue is a uniform annual assessment per licensed bed of each nursing facility in the District of Columbia.

Dedicated taxes have provided the financing for some of the District's most important policy and program initiatives, such as building a new convention center and baseball stadium, modernizing and rehabilitating decrepit public school buildings, and expanding access to affordable health care and housing. There is ample precedent for earmarking of tax revenues for specific public purposes even if this process tends to fragment the budgetary process of the District.

A modification of simple earmarking is developing competitive and transparent grants activities in certain categories of worthy endeavors in the city. For arts projects, for example, many (like the Arena Stage) were funded through specific earmarks for many years. Now a $15 million One City Fund is being enacted to create a competitive and transparent mechanism for making grants up to $150,000 per organization for the arts, with an earmark of. ¼% of the general sales tax for this competitive arts fund. This type of earmark, based on competition within a given category of publicly desirable activity, resembles the structure of the HPTF.

Earmarking of the DRT and PTT for the Housing Production Trust Fund

In the District, 15% of the first 1.1% of the recordation and transfer taxes is allocated to the HPTF. Since 2006, in addition to the 15%, 40% of the increase in revenue due to the increase in tax rates from 1.1% to 1.45% is deposited in the HPTF. The balance goes to the general fund.

HPTF was created in 1998 but it did not have a guaranteed source of revenue at that time. In 2000 the Coalition for Nonprofit Housing and Economic Development (CNHED) commissioned a research report on housing trust funds and submitted it to the Mayor Anthony Williams administration recommending that the city dedicate specific tax revenues to the HPTF. In 2001, Mayor Williams submitted legislation to the D.C. Council to dedicate 15% of the District's Real Estate Deed Recordation and Transfer taxes to the HPTF. In 2002, the Housing Act was passed. It set criteria for the length of affordability for units that benefit from this fund to 5-10 years for owner-occupied units and 40 years for rental units. It also included the dedicated funding stream recommended by the mayor. Later, the Mayor and D.C. Council considered cutting the stream in half. Advocacy groups successfully resisted this cut and so funding for the HPTF has been maintained at 15% of the two revenue streams (Housing Trust Fund Project, 2012). The HPTF remains vulnerable; $18 million from the fund was reprogrammed in part to meet another affordable housing need, the Local Rent Supplement Program, in 2012 (Baer, 2012).

Following the reduction in dollars available from the taxes after the 2008 housing crisis, the HPTF Stabilization Amendment Act of 2008 was passed. This Act guaranteed minimum levels of funding from the recordation and transfer taxes: $70 million in FY 2010, $80 million in FY 2011 and $80 million plus an inflation-based adjustment thereafter. The legislation was passed subject to annual appropriation, so the terms of the amendment were never carried out. The fund received a lower level of funding, consistent with the 15% commitment taken against the reduced tax revenues.

The HPTF is a major source of local funding for affordable housing. Over the last decade, the city has lost 20,000 units of low-cost housing (Falcon, 2013). Affluent residents increased in number at the same time that the population of low income residents fell, implying that higher-income people moved into apartments previously occupied by lower income residents, a form of reverse filtering (District of Columbia Comprehensive Housing Strategy Task

Force, 2006). It is becoming increasingly difficult to find low cost housing in the District. The District's stock of affordable housing has fallen by 50 percent over the last decade while low-value homes (those costing less than $250,000) have declined by 72 percent (Reed, 2012). The District has a large low-income population with severe housing burdens. These households often pay more than half their income for housing.

The HPTF was designed to address this housing challenge. By law, the HPTF is required to dedicate 40% of its annual expenditures to units for households with incomes below 30% of the metropolitan area median average income (AMI). Another 40% of its expenditures must go to support households in the 30-50% AMI range, and no support from the HPTF can be given to households over 80% of the AMI. The HPTF provides loans to nonprofit housing developers to help them quickly acquire properties to develop as affordable housing and loans to for-profit and nonprofit developers to help finance new affordable housing projects.

Dollars invested from the HPTF are matched with private investment through the tenant purchase program and a competitive process that funds new housing construction and rehabilitation. Through 2012, 7,500 affordable housing units have been built using HPTF funds, amounting to a value of $320 million. This investment by HPTF has generated an additional $794 million financing from the private sector, leading to a total investment of $1.1 billion in affordable housing development. By standard measures, the HPTF is cost effective, yielding a 2.5:1 private/public benefits ratio for the District. This cost-effectiveness suggests that support from the District is desirable, although such support need not necessarily come from an earmark on the recordation and transfer tax revenues.

The annual revenues raised from the deed and recordation tax that go to the HPTF have fluctuated annually with the value and sales level in the housing market. Virtually all of the HPTF's funding comes from the earmark of the city's recordation and transfer taxes.

Housing Funds Nationally

The District of Columbia is not alone in its use of earmarking of specific tax revenue streams for particular public purposes including housing.

Many states other than the District of Columbia commit real estate transfer tax revenues to a version of the HPTF with a similar purpose to that in the District. These states include Florida, Hawaii, Illinois, Iowa, Maine, Nebraska, Nevada, New Jersey, South Carolina and

Vermont. Delaware, Illinois, Kentucky, Missouri, Ohio, Oregon, Pennsylvania and Washington (see Table 8).

Table 8 **Selected Housing Trust Funds, by State**	
State	**Revenue Source for Housing Trust Fund**
Illinois	50% of transfer tax
Ohio	Capped at $50 million annual recordation tax revenue
Vermont	50% of transfer tax
Oregon	Commits $15 million document recording fee
Missouri	$3.00 fee added on new mortgage loans
Iowa	Commits $ 6 million of dedicated revenue
Connecticut	About 21%[2] of deed recordation tax
Hawaii	25% of conveyance tax
Washington	Recently increased recordation fee from $20 to $30; the extra $10 goes to the trust fund giving a total of 40% of recordation fee
Pennsylvania	85% deed recordation
South Carolina	$0.25 per $ 500 on real estate sold[3]
Nebraska	$0.90 per transaction
Nevada	$0.10 / $500 on real property transfer tax
Florida	10 cents increase to documentary stamp tax paid on the transfer of real estate and a reallocation of 10 cents of existing documentary stamp tax revenue
Maine	50% of transfer tax revenue less $3,830,000
New Jersey	Revenue raised from increase in conveyance tax by $0.75 per $ 500 for properties in excess of $ 150,000
Delaware	$5 surcharge on recording fees
Kentucky	$6 out of the $12 recording fee

Source: Federal Reserve Bank of San Francisco Community Development

[2] $26 out of $30 paid for recordation is divided equally between 4 accounts, including the Housing Finance Agency.
[3] SC Housing Trust Fund Act.

Some other states established a housing trust fund but fund it differently from the states noted above. Other sources of revenue for housing trust funds include grants, bond sales, and interest on title escrow accounts (see Table 9).

Table 9
Non-tax Sources of Funds for Housing Trust Fund, by State

State	**Revenue Sources**
Utah	Grants from U.S. Dept of Housing & Urban Development
Connecticut, Kansas, Massachusetts	Sale of bonds
Maryland, Minnesota	Interest on title escrow accounts
Arizona	55% revenues from unclaimed property
New Mexico	Capital outlay fund

Source: Housing Trust Fund Project, 2012.

Earmarked Funds in Nearby Jurisdictions and the Nation in General

Earmarking of recordation and transfer taxes is frequently encountered in both nearby jurisdictions and throughout the country, in some cases to support housing and in other cases for other public purposes.

In Virginia, the deed recordation and grantors tax is deposited into the state's general fund. Beginning in January 1994, the Virginia Department of Accounts distributes $10 million each quarter from the state recordation tax and the grantor's tax back to the general fund of localities. For certain localities in the Washington, D.C. suburbs, it deposits revenues into the Northern Virginia Transportation Fund. Beginning in 2009, three cents of every 25 cents recordation tax is deposited into the Commonwealth Transportation Fund. In 2013 the state of Virginia increased the grantors tax from $0.50 per $500 of sales price to $3.50 per $1000 of sales price, a 350% increase. The tax increase is earmarked for transportation and road improvements. This new rate takes effect on July 1, 2013.

In Maryland, portions of the revenue collected from the state transfer tax are allocated to Program Open Space, the Agricultural Land Preservation Fund, the Rural Legacy Program and the Heritage Conservation Fund.

Earmarked Funds from Recordation and Transfer Taxes outside the District

Earmarks for recordation and transfer taxes in other states are not limited to affordable housing. Such earmarks include channeling such tax revenues to funds for parks, energy, bond backing, and open spaces (see Table 10).

Table 10
States with Dedicated Accounts for Deed and Recordation Tax Revenue

State	Use of Revenue
Pennsylvania	15% of the transfer tax allocated to the Keystone Park and Conservation Fund
North Carolina	The revenue collected from the state excise tax on conveyance is divided between the county which receives 50% of the revenues and the state which receives 50% of the revenues less the county's allowance for administrative expenses. The state credits 75% of its share of the excise tax on conveyances to the Parks and Recreation Trust Fund and the other 25% to the Natural Trust Fund
Maine	For FY 2012 a portion of the first 50% of the revenues sufficient to back bonds issued or planned is deposited to the Maine Energy, Housing and Economic Recovery Fund after which the remaining balance is credited to the General Fund. For the other 50%, $ 3,830,000 is credited to the state's General Fund after which the remaining balance is deposited in the Housing Opportunities for the Maine Fund.
Maryland	76.15% of the revenue collected from the state transfer tax is allocated to Program Open Space 17.05% to Agricultural Land Preservation Fund, 5% to the Rural Legacy Program and 1.80% to the Heritage Conservation Fund[a]
Kansas	The county treasurer shall pay quarterly to the state treasurer $0.01 of each $0.26, or 3.85%, paid to the county treasurer from mortgage registration fees. All such money paid to the state treasurer shall be deposited in the state treasury and credited to the Heritage Trust Fund.
Washington	During the 2011-2013 fiscal biennium 1.546% of the proceeds of this tax to the state treasurer must be deposited in the city county assistance account. For the county tax San Juan county has adopted a 1% conservation tax. With approval of the voters the county may adopt an additional 0.5% transfer tax for funding affordable housing

Source: Lincoln Institute of Land Policy
[a]Ratchford 2007

6. Economic Impact of the Recordation and Transfer Taxes

Taxes on property transfers, such as the deed and recordation taxes, have concerned economists for at least two centuries. David Ricardo, writing in 1817, averred that “[i]t is to be lamented, that the duty by stamps, with which the transfer of landed property is loaded, materially impedes the conveyance of it into those hands, where it would probably be made most productive." (Ricardo, 2004, Chap 14). Dobris (1995) echoes this point of view.

The issues with regard to the impact of the recordation and property transfer taxes are their incidence and related impacts on the housing and office markets, and on its relative progressive or regressive characteristics.

Tax incidence and Market Effects

Residential Market

Who pays for the tax and what does this imply about the impact of the taxes or changes in the taxes on the level of market activity for housing in the District? Traditionally the recordation tax is paid by the buyer and the transfer tax is paid by the seller. But the actual incidence of the tax—who actually pays for it in practice—can differ from that formal requirement. It is possible that the seller could nominally pay for the tax but would be compensated for that by a higher price from the buyer. Or, vice versa, the buyer could nominally pay for the tax but be compensated for that by a lower price for the property itself. It all depends on the responsiveness of the buyer and seller to price conditions. Further complicating this matter is the fact that housing varies dramatically in quality and cost so there is no single “housing market” with homogeneous buyers and sellers.

Recordation and transfer taxes will have an incidence that depends on the respective price elasticities of demand and supply. When supply is price inelastic (which means that the number of houses placed on the market (including new construction) is not greatly affected by the price changes) and the demand for housing is relatively elastic (which means that buyers respond substantially to variations in the price of a house), a property tax will be borne mainly by the seller. In conditions where demand is relatively inelastic, more of the tax will be paid by the buyer.

In most empirical studies in the literature, the incidence of recordation and transfer taxes are thought to fall almost entirely on the seller and the value of the tax was capitalized in the price of the property, reducing the selling price (Sexton, 2008; Benjamin, Coulson, & Yang 1993; Dachis, Duranton, & Turner, 2011). For example, such a scenario would mean that if a D.C. property had a market value of $300,000 and faced a combined recordation and transfer tax of $6,600, then the selling price would fall by the full amount of the tax to $293,400. Property owners planning to sell would thus have to absorb the tax in the form of a lower net price of the property. While many property sellers are motivated by a wide range of factors, this reduction in net price could slightly reduce their motivation to sell, possibly reducing the frequency of housing sales in the District.

The shape of the demand curve of prospective buyers may, however, outstrip this impact as many prospective buyers appear to have relatively inelastic demand for properties in the District. The District of Columbia is unique in many ways, recently attracting many waves of new young professionals determined to purchase housing units in the rapidly developing historic neighborhoods in the District. It may well be that the overall demand for housing in the District is more inelastic than in the surrounding suburbs. Many residents and in-migrants may not consider housing in DC and its surrounding suburbs as good substitutes. There may well be a strong preference for location in the District compared to that for structurally comparable units in the suburbs.

If supply elasticities are comparable in the District and its surrounding suburbs but the demand elasticities are much smaller in the District than in surrounding suburbs, the net effect for the region may well be that buyers end up bearing a greater share of the burden of the recordation and transfer taxes. This outcome would be demonstrated in the form of rising housing costs for buyers, even above their assessed value.

Studies on the impact of recordation and transfer taxes on the volume of transactions indicate that level of transactions tends to fall as a result of imposing a new tax in one jurisdiction but not in an adjacent one. In a natural experiment in Toronto, for example, the imposition of a new 1.1% deed recordation tax reduced transactions in that city by 14% (Dachis, 2012; Dachis, Duranton, & Turner, 2011). The authors concluded that the reduction occurred because movement into Toronto from other areas fell because the tax was experienced by prospective in-movers as a barrier to moving into the city of Toronto; prospective movers either bought in other jurisdictions or decided not to move.

The analysis of tax incidence, however, suggests that the uniqueness of the District of Columbia may well offset the tendency to reduce transactions. A Brookings Institution study showed that there appears to be no shortage of movers into the District as the housing market has proven more robust here compared to the rest of the country (District of Columbia Comprehensive Housing Strategy Task Force, 2006). Contrary to some writers (e.g., Dobris 1995), the District's competitive position via-a-vis surrounding suburbs as a destination for in-movers to the region remains strong. A reduction in, or abolition of, the recordation and transfer taxes would not therefore significantly improve its competitiveness as a destination for homebuyers just as relatively higher rates have not impeded in-migration.

A sense of proportion about the tax impacts on market transactions would also be called for. This tax is a one-time levy that, in a typical mortgage agreement, would be amortized over 30 years. Assuming that the buyer pays all of the two taxes—a very strong assumption—with a 4% APR, the change in monthly payments associated with a change from no tax to both taxes would be approximately $40 ($1,790 with no taxes versus $1,830 with both taxes). Such a difference would not greatly affect the overall level of transactions in the District. In a recent study, Weber et al. (2012) estimated that a one percent increase in a transfer tax in the District of Columbia would lead to a 0.2% reduction in the sales of housing. For 2012, this would translate into 16 fewer home sales out of the 7,904 sales.

The relatively lower velocity of sales of rental residential properties in D.C. compared to surrounding jurisdictions is far more likely to result from institutional and legal factors than taxes or pure market forces. For example, the TOPA (Tenants Opportunity to Purchase Act) tends to reduce the swiftness of completing such sales. This D.C. law, passed in the early 1980s, provides tenants in single family housing, 2-4 unit apartment buildings, and large apartment buildings, the opportunity to purchase their residences as a right any time the owner attempts to sell the property. There are many steps that the seller must follow to comply with this law, each one taking potentially several months (Kass, 2004). While this law may have many virtuous impacts (Harrison Institute, n.d.), it certainly reduces the speed with which such transactions take place.

Commercial/Office Market

When evaluating the impact of the recordation and transfer taxes on commercial transactions, especially those associated with the traditionally strong office housing market in the District, significant differences emerge. Unlike the housing market, which is primarily affected by local buyers and sellers, the office housing market is national and global. It is a major investment market, with office structures included in REITs and other financial instruments. As an indication of the international interest in major projects in the District, Qatar is entirely financing the $750 million CityCenterDC project and Abu Dhabi is financing the new Marriott Hotel designed to serve patrons of the D.C. Convention Center. The District of Columbia is generally considered a predictable and secure environment for office investment (AFIRE 2013). The federal government's presence guarantees that there will be many ongoing business needs for access to lawmakers and government offices offering contract opportunities. The demand for office buildings tends to be quite inelastic especially in the downtown areas, as does the supply of office buildings, making a reduction in transactions on either side of the market quite unlikely even in the face of substantial taxes or higher relative tax rates compared to neighboring jurisdictions. There is only moderate substitutability between office space on K Street and office space in other jurisdictions such as the office development near the New Carrollton Metro station in Prince George's County, even if previously distressed portions of the city itself have become a more desirable location for offices, such as NOMA (the new developing area north of Massachusetts Avenue, NW) (DowntownDC 2012).

No sector is immune to the various treacherous economic headwinds facing the nation, however. Sequestration and the general push for a reduced federal role may reduce the demand for office space as the federal work force is pared (DowntownDC 2012). Renewed economic crisis could undo the limited recovery that the United States is currently experiencing. Nevertheless, at the current moment, large office developments would seem to offer an excellent place from which the government could enhance revenues without jeopardizing economic development in the city itself.

Taxes levied on such structures may well be paid by investors from all over the globe. In a sense, the District can "export tax bills" by levying them on such global investment opportunities. From the standpoint of raising funds for city services for all of its citizens, such investment properties seem like an attractive source of tax revenues with few negative local economic consequences, even in the current environment of relatively flat occupancy and rental ask rates.

Progressivity of Recordation and Transfer Taxes for Housing

Assuming that the home buyer pays the recordation tax, it would, in general, be regressive because lower-income persons would pay a higher percentage of their income for the same property. A hypothetical 1% tax, for example, on a property of $250,000 for a household making $50,000 per year would be an effective rate for the year of purchase of $2,500/$50,000 = 5%, whereas a 1% tax on a property valued at $250,000 making $150,000 per year would be $2,500/$150,000 = 1.67%. Even if the richer household bought a property that was twice as expensive ($500,000), it would still be paying only $5,000/$150,000 = 3.3% for the year of purchase.

The District has been sensitive to the tendency of the DRT to be regressive at the individual level. It set the deed recordation and deed transfer tax rate at 1.1% for residential properties with a value of $400,000 or below and 1.45% for those above this value. It has also provided several exemptions to reduce the impact of the tax on low-income households. Some of the exemptions to the DRT that aim to enhance progressivity and promote economic equity include the following examples.

- **Cooperative housing associations**: An exemption is granted if at least 50% of the units are occupied by households with an annual income no greater than 120% of the lower income guidelines established by the U.S. Department of Housing and Urban Development for the D.C. metropolitan area. This exemption also applies to construction loan deeds of trust or mortgage if the property securing the deed of trust or mortgage is owned by a cooperative housing association meeting the same criteria.
- **Qualifying lower income homeownership households**: A qualifying lower income homeownership household must have an annual income no greater than 120% of lower income guidelines established by the U.S. Department of Housing and Urban Development for the D.C. metro area. The household must occupy the unit that qualifies.

This also applies to a construction loan deed of trust or mortgage if the property securing the deed of trust or mortgage is owned by a lower income household.

- **Nonprofit housing associations**: An organization may claim an exemption if it certifies its intent to
  - Transfer the property to a household with annual income no greater than 120% of the lower income guidelines established by the U.S. Department of Housing and Urban Development;
  - Transfer at least 35% of the units in a multifamily property to households meeting the lower income standard;
  - Transfer the property to a cooperative housing association that will make at least 50% of the units available to households meeting the low income standard.
- **Resident management corporations**: Public housing transferred to a qualifying resident management corporation may receive an exemption.
- **Inclusionary Zoning Program:** Transfer of property pursuant to this program may receive an exemption.

These exemptions are examples of "tax expenditures" in that they represent lost revenue to the city. The estimated levels of these losses are modest but non-trivial (see Table 10).

Table 10: Estimated Losses in Revenue Due to Tax Exemptions ($ in 000's)

Year	2012	2013	2014	2015
Type of Exemption				
Cooperative Housing Association	$355	$355	$356	$356
Qualifying lower income homeownership households	$142	$142	$143	$143
Nonprofit housing associations	$213	$213	$213	$214
Resident management corporations	0	0	0	0
Inclusionary Zoning Program	$4	$15	$31	$62
Total	$714	$725	$743	$775
Source: OCFO Tax Expenditure Report 2013				

7. Policy Options

The policy options with regard to the recordation and transfer tax include but are not limited to the following.

1. Abolish the recordation and/or transfer tax(es) or reduce it/them severely. The impact of this action would be to increase the net price that sellers of housing real estate receive by a modest amount approximately equal to the tax. This action would also provide a windfall for buyers of major office buildings approximately equal to the more substantial foregone tax. Such a policy would have reduced tax revenues to the city in 2012 by $163 million for the recordation tax and $122 million for the transfer tax, for a total of $285 million. This action would destabilize the Housing Production Trust Fund and its historically strong leverage of private dollars unless an alternative dedicated source could be found. This would most likely work against the current efforts of the District to offset the decline of the affordable housing stock through a variety of subsidies and stimuli. A slightly less drastic approach would be to lower the combined tax rate to 0.433%, comparable to the rate in Virginia localities. This approach would reduce tax revenues in the District by about 85% instead of 100%, or about $241 million with the same negative impact on the Housing Production Trust Fund.

2. Increase the commercial rates for high-end properties. The tax revenues from major office building sales of $4.166 billion in 2012 was approximately $121 million (see Table 3). Taxes on these large, high end buildings of which 20-40 change hands annually, could be increased substantially if a separate, higher, rate were imposed for this sector. Increasing the rate from 2.9% to 4.9% would have generated about an additional $83 million in tax revenues for the city in 2012. Given the demand for such projects from a national and global market, it is unlikely that such a tax increase would significantly reduce the number of market transactions or cause any local economic damage. (In New York City, the combined rate for such sales can be as high as 8.125%, although most other cities charge a significantly lower rate (see Table 6).

3. Eliminate the "bump up" in recordation and transfer taxes levied at $400,000 in housing value. This recommendation would help avoid price manipulation around the $400,000 level (Weber 2012). The bump could be eliminated by making the higher rate of 2.9% apply only to that part of the value of the housing unit that exceeded or equaled $400,000. For example, a house selling for $599,999 would experience a combined recordation and transfer tax burden of

(2.2% x $399,999) plus (2.9% x $200,000), or $14,600 versus $17,400 ($2.9% x $600,000). This action would have reduced tax revenues in 2012 by about $5.6 million.[4] A modest upward adjustment to the tax rates could be made to maintain revenue neutrality if desired.

4. Increase individual progressivity. Some structural adjustments in the two taxes could achieve greater progressivity, serving the interests of low to moderate income D.C. residents in the housing market. Such steps could include: (a) The low-income level at which exemptions from the tax rates currently become applicable could be increased from 120% to 200% of U.S. HUD's lower income guidelines for the District; (b) all first-time home buyers could be exempted or face a reduced rate (e.g., in Maryland, the transfer tax rate is cut in half because first time buyers are exempt from the tax); (c) raising the maximum tax rates on higher priced residential and commercial properties as in New York City; and (d) expanding the number of rate brackets for the housing market (from the two existing levels), assigning steadily rising tax rates to the brackets, making them applicable only to the marginal increases in housing value to avoid distorting "bump-ups", and indexing them to inflation, could allow greater progressivity and consistency in the tax structure, as is the case in New York, New Jersey, and Hawaii. In New Jersey, for example, the state fee $1.25 for each $500 and a basic county fee of $0.50/$500 is augmented by an additional $0.75/$500 for value in excess of $150,000; a general purpose fee is added that varies from $0.9-2.15/$500 for deeds in excess of $350,000; and an additional 1% fee is added if the property value is in excess of 1 million. Hawaii includes seven brackets for its transfer tax, specifically $0.1/$100 for property value less than $600,000, $0.2/$100 $600,000-$1,000,000, $0.3/$100 $1,000,000-$2,000,000, $0.5/$100 $2,000,000-$4,000,000, $0.7/$100 $4,000,000-$6,000,000, $0.9/$100 $6,000,000-$10,000,000, and $1/$100 for $10,000,000 and above. Similarly, the City of San Francisco has five brackets for its municipal transfer tax, rising from 0.5% for properties with value up to $250,000 to 2.5% for properties over $10. Unlike New Jersey, New York City, Hawaii, and San Francisco apply the highest bracket rate against the entire value of the property, creating "bump up" or "notch" issues in their taxing system.

[4] For 2012, there were 3,597 units of housing sold at a value above $400,000. Reducing the tax on the first $400,000 value of these units by 0.35% equals a reduction $5.6 million in tax revenues.

8. Conclusion

The District of Columbia charges a higher tax rate on property transfers than do surrounding jurisdictions, yielding about 5% of the total tax revenues collected by the city, although this percentage fluctuates considerably as a result of changing economic conditions. The District sets aside 15% of these revenues to support the Housing Production Trust Fund to strengthen the development of affordable housing in the District.

Some changes in these taxes may be desirable. Modifying the tax code to eliminate the price-distorting "bump" at $400,000 would be helpful. Also, taking fuller advantage of national and global interest in the District's office market by augmenting taxes for such properties could provide enhanced revenues with little downside impact despite the current flatness in occupancy and rent-asking rates.

In the final analysis, recordation and transfer taxes are modest one-time levies. Adjustments in them will have only modest impacts on the economic development of the city.

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