D.C. Tax Revision Commission Policy Options

Policy Option #55: Increase the Deed Tax Rate for Commercial Property from 2.9% to 4.9%

MEMORANDUM

Proposal: Increase commercial property deed tax rate from 2.9% to 4.9%
Tax Type: Deed recordation and transfer tax
Origin: Rodney Green
Commission Goal: Competition

Current Law

The deed recordation and transfer taxes (deed taxes) are imposed when taxable properties in D.C. are sold or transferred. The deed recordation tax is imposed on the recording of all deeds to real estate in the District (and is considered a tax on the buyer). At the same time, the deed transfer tax is also imposed on each transfer of real property (but is considered a tax on the seller). The deed recordation tax must also be paid on the increased value when commercial property is refinanced.

The basis of both taxes is the consideration (amount paid) for the property, including cash, property other than cash, mortgages, liens and a security interest in non-residential property. If there is no consideration or the consideration is nominal, the tax is based on the fair-market value of the property.

For all real property (other than residential properties valued at less than $400,000), the rate for each tax is 1.45% of total consideration or fair-market value. Therefore, the combined deed tax rate for a transfer of residential property valued at $500,000 or any commercial property would be 2.9%. For residential properties valued at less than $400,000, the rate for each tax is 1.1% of total consideration or fair-market value—for a total of 2.2%.

The District dedicates 15% of deed tax revenue to the Housing Production Trust Fund, which funds a variety of affordable housing programs. In fiscal year 2012, deed tax revenue totaled $284.9 million, with $163.4 million from the recordation tax and $121.5 million from the transfer tax.

Proposed Change

Increase the combined deed tax rate for commercial properties from 2.45% to 4.9%.

Reason for Change

The District could derive additional revenue from a commercial sector that is dominated by large, high-end office buildings by raising the tax rate. Professor Rodney Green, the D.C. Tax Revision Commission's consultant on the deed taxes, noted that the office market is both national and global. He surmised the increased taxes would be paid by investors around the world and would have minimal impact on the local economy.

Pros

- Would raise new tax revenue.
- Demand in the D.C. commercial office market has been vibrant and may be relatively inelastic.

Cons

- D.C.'s deed taxes are already significantly higher than those in Maryland and Virginia (combined rates in Maryland vary by jurisdiction from 1.5% to 2.45%, while the combined rate in Virginia jurisdictions is only 0.433%). Raising the rate would make D.C. less completive in attracting businesses to the city.
- The increase could harm economic development in the District particularly if conditions change and the commercial market weakens in the future.

Revenue Impact

The Office of Revenue Analysis estimates that in the first year of implementation raising the deed tax rate for commercial property would raise $66.4 million in new tax revenue.