

1707 L Street, N.W.  
Sixth Floor  
Washington, D.C.  
20036-4203  
(202) 331-4364  
FAX (202) 828-8572  
Sections Infoline  
(202) 223-7729



## SECTIONS

### THE DISTRICT OF COLUMBIA BAR

TO: Board of Governors  
Section Chairpersons  
(Designated to Receive Public Statements)

FROM: Carol Ann Cunningham *CAC*

DATE: February 27, 1992

SUBJECT: EMERGENCY PUBLIC STATEMENT regarding Comments  
on the Proposal to Tax Professional Services in  
the District of Columbia, Bill 9-454, by the  
Section on Real Estate, Housing and Land Use

Eileen Sobeck  
Chair, Council on Sections  
Susan L. Moss  
Vice Chair,  
Council on Sections

James Robertson  
D.C. Bar President  
Jamie S. Gorelick  
D.C. Bar President-Elect  
Katherine A. Mazzaferri  
D.C. Bar Executive Director

Carol Ann Cunningham  
Sections Manager

Special 24-hour expedited consideration requested on  
behalf of the Real Estate, Housing and Land Use Section

Enclosed please find for your immediate review a one-page summary of a public statement prepared by the Real Estate, Housing and Land Use Section. Copies of the full text will be provided upon request. If you wish to have this matter placed on the next Board of Governors' agenda on March 10, please call me by 2:00 p.m. on Friday, February 28. I can be reached at (202) 331-4364.

Please note that according to the Guidelines regarding public statements (pp. 39-52) your telephone call "must be supplemented by a written objection lodged within seven days of the oral objection."

Enclosures

cc w/full public statement text:  
James Robertson, Esq.  
Jamie S. Gorelick, Esq.  
Michael J. Madigan, Esq.  
Eileen Sobeck, Esq.  
Susan L. Moss, Esq.  
Katherine A. Mazzaferri, Esq.

## REAL ESTATE, HOUSING AND LAND USE SECTION



The District of Columbia Bar

*Advising Committee:*

Karen A. Hammer, Cochair  
 Richard A. Newman, Cochair  
 Cory M. Amron  
 M. Colleen Dalton  
 Ronald S. Gatt  
 Andrea P. Salley  
 Eric A. von Salzen

James Robertson  
 D.C. Bar President  
 Jamie S. Gorelick  
 D.C. Bar President Elect  
 Katherine A. Mazzaferri  
 D.C. Bar Executive Director

Elleen Sobeck  
 Chair, Council on Sections  
 Susan L. Mose  
 Vice Chair, Council on Sections

Michael J. Madigan  
 Board of Governors Liaison  
 Carol Ann Cunningham  
 Sections Manager

*Committees:*  
 Commercial Leasing  
 Commercial Transactions  
 Land Use  
 Publications  
 Rental Housing  
 Residential Property

MEMORANDUM

TO: D.C. Bar Board of Governors  
 FROM: Real Estate, Housing and Land Use Section  
 DATE: February 27, 1992  
 RE: Proposed Public Statement - Tax on Professional Services

Executive Summary

The Real Estate, Housing and Land Use Section's comments on the proposed tax on professional services notes that the tax, not mirrored in the suburbs, will likely depress real estate values and encourage professionals to relocate to suburban offices, with the likely result being a net loss in tax revenues to the District because of lost real estate, sales and income taxes.

Your approval is requested.

RAN/ljc

COMMENTS OF THE SECTION ON REAL ESTATE, HOUSING AND LAND USE  
OF THE DISTRICT OF COLUMBIA BAR ON THE PROPOSAL TO TAX  
PROFESSIONAL SERVICES IN THE DISTRICT OF COLUMBIA

Cory M. Amron  
M. Colleen Dalton  
Ronald S. Gart  
Karen A. Hammer  
Richard A. Newman, Co-Chair  
Steering Committee Members

February 26, 1992

---

STANDARD DISCLAIMER

"The views expressed herein represent only those of the  
Section on Real Estate, Housing and Land Use of the D.C. Bar and  
not those of the D.C. Bar or its Board of Governors."

---

# REAL ESTATE, HOUSING AND LAND USE SECTION



The District of Columbia Bar

James Robertson  
D.C. Bar President  
Janie S. Gurelick  
D.C. Bar President-Elect  
Katherine A. Mazzuferri  
D.C. Bar Executive Director

*Steering Committee:*

Karen A. Hammer, Cochair  
Richard A. Newman, Cochair  
Mary M. Antron  
M. Colleen Dalton  
Donald S. Garr  
Shirley P. Salley  
Eric A. Von Salzen

*Sharon Soback*

Chair, Council on Sections

Eusan L. Moss

Vice Chair, Council on Sections

Michael J. Madigan

Board of Governors Liaison

Jacq Ann Cunningham

Sections Manager

2

*Committees:*

Commercial Leasing

Commercial Transactions

Land Use

Publications

Rental Housing

Residential Property

**MEMORANDUM**

TO: Honorable Sharon Pratt Kelly  
Mayor  
District of Columbia

Mr. John Wilson  
Chairman  
Council of the District of Columbia

FROM: Real Estate, Housing and Land Use Section  
District of Columbia Bar Association<sup>1/</sup>

DATE: February 26, 1992

RE: Proposal to Tax Professional Services in the  
District of Columbia

The Real Estate, Housing and Land Use Section of the D.C. Bar would like to take this opportunity to submit comments with respect to the pending proposal to impose a tax in the District on professional services, including the services of attorneys. While it is our understanding that other Bar Sections have undertaken to analyze such matters as attorney-client privilege implications, administrative considerations and the like, we would like to point out what we perceive to be potentially unique implications of this proposed tax regime to both our members and their clients and, by extension, to the District's treasury.

As a threshold matter, it should be noted that the Real Estate, Housing and Land Use Section of the D.C. Bar represents lawyers located throughout metropolitan area whose practices are often at least regional, if not national in scope. Our members typically handle transactions concerning real estate located in Maryland, the District of Columbia and Virginia, as well as

<sup>1/</sup> "The views expressed herein represent only those of the Real Estate, Housing and Land Use Section of the District of Columbia Bar and not those of the D.C. Bar or of its Board of Governors."

Mayor Sharon Pratt Kelly  
Chairman John Wilson  
February 26, 1992  
Page 2

elsewhere in the country, and routinely involve entities structured under the laws of foreign states in the roles of buyer, seller, borrower, lender, etc. Similarly, many of our members practice in law firms which have offices in multiple jurisdictions both throughout the metropolitan area and the rest of the country, and while in general, real estate can be located in a specific jurisdiction, transactions such as transfers of partnership interests, secondary mortgage market financings, and the like are not site specific. Thus, significant problems may arise in attempting to impose a tax relating to real estate transactions, particularly those subject to overlapping or similar taxes imposed in those few other jurisdictions (such as Philadelphia) where such taxes are in place.

In our view, however, the central consideration which we as real estate lawyers feel compelled to bring to the attention to the Board of Governors and to the City Council is the effect that a tax structure such as is proposed would have on our clients and through them on the District's treasury. In our view, the imposition of a tax on professionals practicing in the District would have a significant depressing effect on D.C. real estate values. As you know, the local real estate market is in a major decline, with real estate values having plummeted over the last two years. The proposed tax would, of course, be imposed solely on professionals practicing in offices in the District of Columbia; the surrounding suburban jurisdictions do not have parallel taxes and thus in the highly competitive real estate market (and the highly competitive market for real-estate related services) a significant inducement would be created by the adoption of this bill to relocate professionals to suburban office buildings. There are already significant concentrations of law firms and other professionals in this area whose offices are located in suburban Virginia and Maryland and the adoption of this bill would exacerbate that trend. Given the extraordinary communication technology available today, it is clearly no longer necessary for attorneys and other professionals to be located in close proximity to one another; thus, there is no reason to expect that relocation of attorneys and other professionals to lower tax jurisdictions would not occur. To the contrary, to the extent that anything can be done to reduce the cost of providing services to our clients, our constituents will undoubtedly pursue those options. Moreover, as is evidenced by the high incidence of market-driven professional lease renegotiations recently reported in the newspapers and the increasingly wide area in the District in which even the most established firms are locating, attorneys and other professionals can and will readily

Mayor Sharon Pratt Kelly  
Chairman John Wilson  
February 26, 1992  
Page 3

move their offices if it is economically advantageous to do so. This potential out-migration of prospective tenants will clearly undermine demand in an already over-supplied market, thereby adversely effecting real estate values to the detriment of our clients, the owners and lenders of such properties.

The consequence of any such relocation on the District of Columbia's tax base would also be significant. As demand for real estate in the District declines, the value of D.C. real estate will correspondingly decline with the necessary consequence being a reduction in assessed values and therefore a reduction in real estate tax collections. Moreover, to the extent that professionals relocate out of the District, sales taxes and employment related taxes associated with those who provide services to them and their support staffs will correspondingly decline. Thus, in addition to the other highly-disruptive effects that such a tax scheme would cause, it is likely that the final result would be no net gain, and quite possibly a net loss in total tax collections for the District.

We hope these comments are helpful to you in your consideration of this tax proposal.

cc: Section Members

RAN/ljc