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A Call For Real Estate Transfer Tax Reform

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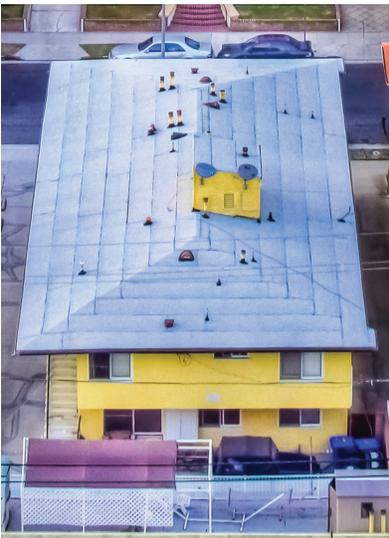
A Call For Real Estate Transfer Tax Reform

July 2020



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Report Motivation

Municipal revenues have been hit hard by the COVID-19-driven economic slowdown, forcing governments to identify new sources of funding or enact steep service cuts. Cuts of approximately \$1 billion for Los Angeles County and up to \$600 million for the city of Los Angeles are anticipated, with further reductions possible as the economic fallout comes into sharper focus. Even prior to the COVID-19 pandemic, California local governments have been restricted in their options for raising revenue. This has led to an overreliance on regressive sales taxes and an inequitable distribution of property tax burden, among other challenges. Reforms to the real estate transfer tax, which is assessed when properties are sold or otherwise change ownership, are an effective and equitable solution to immediate budget needs, while also supporting important long-term priorities including affordable housing and tenant assistance.

Real Estate Transfer Taxes

Real estate transfer taxes, known also as documentary transfer taxes or real estate excise taxes, are assessed on the sale value of a property when it changes ownership. These taxes are sometimes designed as a fee rather than a tax. LA County collects a minimal transfer tax of 0.11%, or \$1.10 per \$1,000 of the sale price. Some cities collect transfer taxes on top of the county rate: Los Angeles and Culver City collect 0.45%, Santa Monica assesses a 0.3% rate, and Pomona and Redondo Beach both collect 0.22% (Registrar-Recorder/County Clerk). The total tax rate in the city of Los Angeles, therefore, is 0.56% of the sale price; a home purchased for \$700,000 would owe a transfer tax of \$3,920 at the time of sale. If the same home were subject to sales tax — a tax that poorer residents spend a disproportionate share of their income on — the payment would be closer to \$70,000.

San Francisco is one of a number of California cities that assess higher transfer tax rates than Los Angeles. Further, its tax is graduated, or progressive, meaning that sales of more valuable properties are taxed at higher rates. Properties sold for \$250,000 or below pay a tax rate of 0.5%, with the rate increasing in increments to a maximum of 3.0% for properties worth \$25 million or more (Office of the Assessor-Recorder). San Francisco’s six transfer tax rate brackets are shown in

Table 1.

Table 1.
San Francisco real estate transfer tax rates

Sale price	Tax rate
\$250,000 or below	0.5%
\$250,000.01 to \$999,999	0.68%
\$1 million to \$4,999,999	0.75%
\$5 million to \$9,999,999	2.25%
\$10 million to \$24,999,999	2.75%
\$25 million or above	3.0%

These higher rates have a large impact on revenues. Los Angeles’ population is 4.5 times larger than San Francisco’s, and the total assessed value of property in the city is more than 2.3 times higher, yet San Francisco collects significantly more transfer tax revenue each year. **Table 2**, below, illustrates the discrepancy between the two cities.

Table 3.
Washington state real estate excise tax rates

Sale price bracket	Tax rate
\$500,000 or below	1.1%
\$500,001 to \$1.5 million	1.28%
\$1,500,001 to \$3 million	2.75%
\$3,000,001 or above	3.0%

These new rates mean Washington state properties worth less than \$1.5 million actually pay less transfer tax today than prior to the law change. However, because the rates are much higher for higher-valued properties, statewide REET revenues are expected to grow by approximately \$175 million per year beginning in 2020 (Department of Revenue).

Benefits and Drawbacks of Transfer Taxes

One clear benefit of real estate transfer taxes is their revenue potential, which will be discussed in greater detail in the next section. As noted above, they can also be designed in a progressive fashion, assessing the highest rates on those with the greatest ability to pay.

Transfer taxes are collected only once, at the time of sale, when it’s easiest for most property owners to pay. This is in contrast to property taxes, which are collected year-in and year-out, regardless of the owner’s ability to pay (with some exceptions, such as low-income or senior exemptions and deferrals). Concerns about “house-rich, cash-poor” households, especially retired homeowners pushed from their homes by rising property taxes, remain a common argument by proponents of Proposition 13 (Howard Jarvis Taxpayers Association, n.d.). Such critiques do not apply to transfer taxes. If a homeowner has no plans to sell their home then they face no additional tax liability. This is likely to increase the political popularity of transfer tax reform relative to property tax reform, with fewer property owners seeing themselves as personally affected.

The concern most likely to be raised about transfer taxes is their impact on home prices — that they will make housing less affordable in an already unaffordable market. This is a weak argument for several reasons. First, it’s important to remember that transfer taxes usually amount to a percent or two of sale value, similar to the amount paid in property taxes every year. Second, home prices are not determined by cost to the seller, but by demand; if transaction costs increase slightly, a large portion will likely be absorbed by the seller, who in most cases can draw on tens or

Revenue Potential in Los Angeles

Note: The analysis below is for the city of Los Angeles. If you represent another city in LA County and would like a similar analysis performed for your city, please complete the form at the following link and we will seek to fill your request. Please note we are limiting requests to elected officials, government agencies, and non-profit/community-based organizations at this time.

Link: <https://bit.ly/2OKVTHN>

As demonstrated by Bay Area cities and Washington state, there is potential for the city of Los Angeles to raise considerably more revenue from the real estate transfer tax. The exact amount depends on its design — rates, brackets, and exemptions in particular.

To estimate this potential we use data from the County Assessor Sales List, which details all property sales and transfers from the past two years. The Sales List provides the parcel number, building address, use code, parcel zoning, transfer/sale and recording dates, sale price, and other data on the property and buyer(s) involved in each sale. This analysis focused on property sales in the city of Los Angeles for calendar year 2019. We evaluate the transfer tax potential of residential and commercial properties separately: Residential properties are those for which the first digit of the property use code is 0 (zero), and commercial properties are limited to those for which the use code begins with a 1, 2, or 3. Certain uses including movie theaters, gymnasiums, and hospitals are not considered commercial according to this definition. A full list of LA County use codes can be found here: <https://bit.ly/2OMdXl9>.

Table 4 details the revenue potential of three transfer tax reform scenarios — limited, moderate, and optimal reform. The table provides marginal tax rates, property sale price brackets, and estimated revenues for each scenario, for both residential and commercial properties. In bold are the total revenue estimates with an exemption for multifamily and commercial properties sold in 2019 but built 2015 or later. The final row displays revenue estimates if this exemption were eliminated (which is not recommended, but is provided to estimate its impact).

This analysis assumes that an increased transfer tax would not meaningfully reduce the total volume of property sales. Importantly, the Assessor’s Sales List only provides data on the most recent sale of a given property. If a home were bought in 2019, flipped, and resold later in 2019 or 2020, for example, the first sale would not be included in the Sales List, making these estimates somewhat conservative.

Moderate reform: The first \$500,000 of property value is taxed at 1.0%. This rate is still less than the lowest rate in Washington state and several Bay Area cities, and equal to the annual property tax rate in California at the time of sale, before Proposition 13 tax discounts begin to accrue. The rate climbs faster than the limited structure, reaching 2.5% at the \$2 million threshold and 4.0% on any portion of value over \$25 million. Under this scenario, a property sold for \$1.5 million would owe a tax of \$20,000, or 1.33% of total value. This tax structure would raise approximately \$792 million, which is \$580 million more than, or 3.7 times, the amount forecasted in the city’s FY 19-20 budget.

Optimal reform: The first \$500,000 of property value is taxed at 1.25%, more than many Bay Area cities but less than Berkeley’s and Piedmont’s lowest rate. It is similar to Oakland’s tax, which assesses 1.0% on properties valued under \$300,000 and 1.5% on properties sold for between \$300,000 and \$2 million, though Oakland’s tax is flat rather than marginal. This rate climbs faster than the limited and moderate reform structures, reaching 3.0% at the \$2 million threshold and 5.0% on any portion of value over \$25 million. Under this scenario, a property sold for \$1.5 million would owe a tax of \$23,750, or 1.58% of total value. This tax structure would raise approximately \$965 million, which is \$753 million more than, or 4.6 times, the amount forecasted in the city’s FY 19-20 budget.

Table 5 provides examples for several representative property sale prices, displaying the transfer tax payment and effective tax rate under each reform scenario.

Table 5.
Transfer tax payment and effective tax rate for different property values under each reform scenario

Property sale prices	Tax payment (Effective tax rate)		
	Limited	Moderate	Optimal
\$400,000	\$2,600 (0.65%)	\$4,000 (1.00%)	\$5,000 (1.25%)
\$800,000	\$6,250 (0.78%)	\$8,750 (1.09%)	\$10,750 (1.34%)
\$1.5 million	\$14,500 (0.97%)	\$20,000 (1.33%)	\$23,750 (1.58%)
\$4 million	\$50,750 (1.27%)	\$78,750 (1.97%)	\$93,750 (2.34%)
\$20 million	\$440,750 (2.20%)	\$591,250 (2.96%)	\$723,750 (3.62%)

As a result of Proposition 13, effective property tax rates in California vary from as high as 1% for new buyers to lower than 0.2% for long-time owners, with no regard for household income, wealth, or property value appreciation (Taylor, 2016). Increasing the transfer tax on properties with lower effective property tax rates could help offset some of this inequity. To accomplish this, a multiplier could be applied to the tax rates listed in **Table 4**. For example: a 1.0x multiplier for properties with an effective property tax rate above 0.9%; a 1.2x multiplier for property tax rates from 0.80-0.89%, a 1.4x multiplier for rates between 0.70-0.79%, and so on. Using the “moderate reform” transfer tax rates, a property with an effective property tax rate of 0.95% sold for \$1.5 million would pay a transfer tax of \$15,750 (1.0x multiplier), while a similar property with an effective tax rate of 0.65% would pay \$25,200 (1.6x multiplier).

The new revenues could be spent on a variety of important local efforts including low-income housing construction and rehabilitation, supportive housing and shelters, as well as services for unhoused residents, acquisition of land and at-risk rental properties, rental housing assistance including Housing Choice vouchers, and legal representation for tenants facing eviction or slum conditions. They could also be spent on non-housing-related programs, depending on input from policymakers and other stakeholders.

Because of the volatile nature of transfer tax revenues, care must be taken in how they’re allocated. After approval of a new progressive transfer tax, Los Angeles should adopt a spending plan similar to the one found in Berkeley. Berkeley collects \$17 million to \$20 million per year from its transfer tax and allocates a flat \$12.5 million per year to its general fund. The remaining funds are treated as one-time revenue and spent on infrastructure capital expenses (City of Berkeley, 2019). Los Angeles needn’t limit one-time revenues to capital investments only — the COVID-19 pandemic and economic crisis has highlighted the value of a well-stocked emergency fund, for example — but it would be prudent to commit no more than 60%–70% of projected revenues to programs that require ongoing, stable funding.

Enacting Transfer Tax Reform

In California, two-thirds voter approval is required for “special taxes,” defined as any tax earmarked for a specific purpose. This includes the LA County sales tax measures Measure M (earmarked for transportation investments) and Measure H (dedicated to services for unhoused residents). General taxes, in contrast, are not earmarked for a specific purpose and can be spent on a wide range of governmental programs, services, and investments. They also require only majority support for approval, so any local initiative to reform the transfer tax should be structured as a general tax. A separate, non-binding initiative stating that funds should be spent on specific purposes might be attached to the proposal, for the purpose of garnering additional political support, but recent ballot results in the Bay Area indicate that this may be unnecessary.

Conclusion

The tax structure of local governments in California is deeply regressive, relying heavily on sales taxes and inequitably distributed property taxes. Equalizing property tax assessments would be an ideal solution to this problem, but this option is unfortunately limited by Proposition 13 tax restrictions. Two-thirds voter approval, which can be difficult to reach, is also required for many tax reforms — also a legacy of Proposition 13. A second-best alternative to property tax reform, sharing many of its benefits and requiring only majority approval by voters, is to update the real estate transfer tax with higher and more progressive rates.

The proposed reforms could increase transfer tax revenues to \$560 million to \$970 million per year in the city of Los Angeles from today’s annual revenues of approximately \$210 million. With a multiplier applied to properties with larger Proposition 13 tax discounts, the potential revenues could be even higher. Similar revenue increases, adjusted for population and local property values, are possible in cities across Southern California. These new funds could support a variety of efforts that are currently on the chopping block, including many that were underfunded even prior to the COVID-19 pandemic. High-level estimates and considerations have been presented in this brief, and policymakers and advocates are strongly encouraged to explore the potential of transfer tax reform in greater detail.

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