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Programs that Work

A Review of Real-Estate Transfer Tax Legislation Enacted by 13 States and 3 Local Areas to Fund Parks and Conservation

Jamie Rae Walker
John L. Crompton

Executive Summary: A real-estate transfer tax (RETT) is a tax imposed on transfers of real property within a taxing authority's jurisdiction. Since it was repealed at the federal level in the 1960s, 37 states have authorized a RETT and 13 of these have used at least part of it to create a dedicated funding source for park or conservation purposes. This paper analyzes the legislation in those states and in 3 local jurisdictions where a RETT has been enacted.

The tax rate levied by these jurisdictions varied from 0.10 to 2.00% and it was paid either by the buyer or by the seller, or it was divided between them. The conceptual rationales for the tax and for who should pay it are discussed. Interviews with administrators of the 16 RETT programs yielded insights into developing coalitions in support of the legislation; stability and leverage; and suggested improvements to specific RETT enabling legislation.

The revenue potential that would emerge if a RETT were implemented in Texas for parks and conservation is explored. Typically, realtors are the primary opponents of RETTs, and they identify four major objections to them: (a) they are regressive and discriminatory; (b) their narrow base violates the principle of horizontal equity; (c) they are volatile and do not provide a stable source of revenue; and (d) they reduce the ability of potential buyers to purchase a home. The legitimacy of each of these objections is analyzed and all of them are found to be unconvincing.

KEYWORDS: real estate transfer tax, legislation, Texas, parks and conservation

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Park and conservation advocates in Texas are seeking a dedicated funding source that would provide consistent funding for the acquisition and development of parks, and/or for a state program to purchase development rights from willing sellers. One of the revenue sources being explored is a real-estate transfer tax (RETT).

The potential of using a RETT for these purposes was explored in this journal by Crompton and Orton in 1982. Their paper analyzed its use at the state level in Maryland and Florida, and in four local jurisdictions. Since that time it has become more pervasive, with many other jurisdictions adopting it. Indeed, RETTs at the state level have now been implemented in 37 states and in Washington D.C., and approximately one-third of these states have passed enabling legislation authorizing local governments to implement such a tax (National Association of Realtors, 2003). However, only 13 states appear to dedicate at least part of their RETT revenue to park and conservation programs.

The Texas exigency and the expanded use of RETTs in the nearly 20 years since the earlier paper was written afforded the rationale for this updated review. It extends the original Crompton and Orton (1982) contribution in three ways: (a) it identifies and analyzes the use of RETTs in an additional 11 states and 2 local jurisdictions, and it updates the status of the state programs in Maryland and Florida, and the local program in Nantucket, Massachusetts; (b) it offers insights into the efficacy of the tax gleaned from interviews with managers responsible for implementing the RETT programs in these jurisdictions; and (c) it explores the implications of enacting a RETT in Texas.

Background

A RETT is a tax imposed on transfers of real property within a taxing authority's jurisdiction. It is levied whenever property is sold, granted, assigned, transferred, or otherwise conveyed from one person to another. RETTs invariably apply to residential property transactions, and in most cases they are also applied to sales of vacant land and to industrial, commercial, and retail properties. Typically, there are exemptions in implementing a RETT relating to sales transactions between family members; first-time home buyers; senior citizens; nonprofit organizations; housing corporations; government agencies; and sheriff's sales. The tax is given a variety of different names. In the enabling legislation of the jurisdictions analyzed in this paper, the names used were:

- Real Property Transfer Tax
- Reality Transfer Tax
- Excise Stamp Tax
- Deed Recording Fee
- Recordation Tax
- Property Tax Transfer
- Conveyance Tax
- Documentary Stamp Tax

This form of taxation has a long history in the United States. Initially it was levied at the federal level at a rate of 55 cents per \$500 value of the property conveyed. However, the federal legislation was repealed in 1965, primarily because it was argued that real-estate taxes should be the exclusive privilege of local and state governments (Crompton & Orton, 1982). After the federal tax was repealed, its revenue potential became available to state and local governments, and its use has gained momentum among these jurisdictions.

There is some debate as to whether a RETT is an income tax, a sales tax, or a property tax. The distinction is important because it directs the conditions under which it may be authorized. If sellers pay the RETT, then it might be regarded as an income tax, which would mean that voter approval would be required in some states before it could be enacted. Its designation as a sales or property tax may determine whether a local jurisdiction has the authority to impose it under its powers as a home rule city or under the terms of its particular municipal charter.

Property transactions generally involve the recording of a deed with a county or municipal authority. A RETT typically becomes a component of the closing procedures. Hence, the cost of administering such a tax is likely to be minimal, since it merely involves paying at that time. A monitoring mechanism is built into the process since private sector title companies are likely to require that the RETT is paid before issuing title clearance.

It is an appropriate source of revenue for park acquisition and conservation because development often decreases habitat and recreational opportunities while creating a need for more recreational areas. The philosophical justification for levying a RETT for parks and the conservation of open spaces was expressed well by the commission that initially recommended its implementation for this purpose in Maryland in 1968:

The idea behind the transfer tax is that the person who buys a home or other property for private use has hastened the decline in available open space land. By paying a tax at the rate of one-half of one percent of the property purchase price, that same person would help to support the buying of land which could be used and enjoyed by the general public. (Maryland Department of Natural Resources, 1979)

RETT advocates also argue the tax is a mechanism for recapturing the value of public investment. The quality and quantity of park and open spaces influence the value of property in a community (Crompton, 2004). The general public invested in creating these spaces; financial gain accrues to private property owners from that investment, so the tax recaptures some of that private benefit for the general welfare accruing from the public's investment in parks and open spaces.

The level of revenue accruing from a RETT depends on: (a) the rate charged; (b) the types of properties covered; and (c) the level of real-estate market activity. This revenue source does provide an intuitively attractive

financial balancing mechanism. Economic conditions substantially influence the private real-estate market. Because the RETT is tied to that market, the amount of revenue it generates reflects the prevailing economic condition of the area. Thus, downturns in the economy do not necessarily reduce the tax's purchasing power because, even though available funds decline as real-estate market activity slows, the cost of acquiring park land is likely to be less. Thus, less revenue is needed to purchase a given amount of land. Conversely, when the real-estate market is active and land prices rise, the tax generates more revenue so the given amount of land can still be purchased.

The classic criteria against which the equability of a governmental revenue source is evaluated are its responsiveness to people's ability to pay and the extent to which payers receive benefits. Like other property taxes, a RETT is likely to be regressive if it is applied at a flat rate to all property transactions. That is, its burden relative to income level is greater on those with lower rather than with higher incomes, because people tend to spend a decreasing share of their total income on housing as income increases. One approach to countering this problem has been to exclude the first (say) \$75,000 or \$100,000 value of transactions from paying the RETT.

The relationship between those paying and the benefits they receive can be explained in two ways depending on whether responsibility for the tax is assigned to either the seller or the buyer. The seller, as an existing resident, has enjoyed access to park facilities and contributed to their depreciation. Thus, the selling household should contribute to restoring them before leaving. The buyer, on the other hand, enjoys immediate access to established parks and conservation facilities, but has made no capital contribution to them. This "freeloading" is covered when the buyer contributes through the payment of a RETT. However, although the law will assign the tax to be the responsibility of the buyer, the seller, or both, in practice the decision of the tax payment is often negotiated as part of the sales transaction.

Notwithstanding the equity issue, the ideal revenue source from a political perspective is one that meets with minimal public resistance. Thus, a RETT is viewed by many legislators as a relatively "easy" tax to impose for three reasons. First, it is not highly visible. It impacts local people only when they sell or buy their home, which is an infrequent occurrence, and it is "lumped in" with a variety of other fees and costs so it becomes hidden under the generic heading of "closing costs." Second, if it is imposed on buyers, then much of the revenue is likely to be raised by taxing newcomers to the community rather than current residents. Third, in accordance with the rationales linking payments with benefits discussed in the previous paragraph, the tax can be conceptualized and positioned as a "user fee" rather than as a tax, which is likely to be more acceptable to an electorate.

Table 1
Features of the Real Estate Transfer Tax Statutes

Delaware, 2%
Martha's Vineyard, MA, 2%
Nantucket, MA, 2%
Vermont, 1.25%
Pennsylvania, 1%
San Juan County, WA, 1%
Maryland, 0.50%
Florida, 0.45%
New Jersey, 0.40%
New York, 0.40%
South Carolina, 0.37%
Tennessee, 0.37%
Arkansas, 0.22%
North Carolina, 0.20%
Hawaii, 0.10%
Illinois, 0.10%

Table 1 lists the 16 jurisdictions whose RETTs were reviewed and shows that the tax rates levied ranged from 2 to 0.10%. A summary of key elements in the authorizing legislation of each jurisdiction is given in Table 2, whereas Table 3 reports the annual total revenue derived from this source. In many states, some of the RETT revenue is dedicated to other services as well as parks and conservation. Table 3 shows the total amounts the tax generates, while column 3 of Table 2 shows the proportions of these totals that are allocated for park and conservation purposes.

Insights into the Legislation from Interviews

Phone interviews were undertaken with representatives from each of the state and local jurisdictions listed in Table 1 to solicit their insights into the legislation. Their comments were classified into three categories: developing coalitions and support of the legislation; stability and leverage; and suggested improvements to their specific RETT's enabling legislations.

Developing Coalitions in Support of the Legislation

A key constituency in the political debate on establishing a RETT is likely to be the realtors association. The policy of the National Association of Realtors is unequivocal in its oppositions to RETTs:

Realtors should oppose the establishment of transfer taxes or fees. Where they currently exist, we urge their repeal, opposition to any increases, and/or redirection of this revenue source to be used for one-time capital acquisitions that are related to housing or commercial property improvements. (e.g. infrastructure) (National Association of Realtors, 2003)

However, this national policy is not necessarily endorsed by local realtors, who recognize the contribution of parks and open spaces in enhancing a community's quality of life, and hence its real estate values. For

Table 2
A Summary of Real-Estate Transfer Tax Allocations for Conservative Purposes in 13 States and 3 Local Areas

	Authorizing Legislation	Proportion of the Tax Allocated for Park & Conservation Purposes in 2003	Amount Levied	Responsibility for Payment
Arkansas 1988	Real Property Transfer 26.5.60.105 (b)	Natural and Cultural Resources Grants & Trust Fund, 80%	\$1.10 per \$500 or fractional amount thereof on properties >\$100	Buyer
Delaware 1971	Realty Transfer 30.54	Conservation Trust Fund June 30, 2000: \$3m Endowment account. Then, \$1 m per year to Endowment account and \$9m per year to project until Endowment account reaches \$60 m	2% on properties values > \$100. If local levies >1%, the State levy is decreased to 1.5%	Divided equally between the Seller and Buyer
Hawaii 1966	Conveyance 247	Natural Area Reserve Fund, 25%	\$ 0.10 per \$100	Seller
Florida 1968	Documentary Stamp 201	Land Acquisition Trust Fund, 70%	\$2.25 per \$500	Buyer
Maryland 1968	Transfer Tax 13.101	Department of General and Natural Resources, and Department of Planning jointly administer Program Open Space Up to 3% of revenues in special fund may be allocated to Program Open Space	0.50%	Agreement between the parties
New Jersey	Realty Transfer Fee	Shore Protection Fund, Amounts, not in excess of \$25,000,000, paid during the State fiscal year to the State Treasurer from the payment of the State portion of the basic fee shall be credited to the "Shore Protection Fund"	\$2.00 per \$500 or fractional amount >\$150	Seller
New York 1990	Real Estate Transfer 31.1400	Environmental Protection Fund \$33.5m 1995; \$87m 1996 and 1997; \$112m 1998 and thereafter	\$2 per \$500 or fractional thereof on property more than \$500	Seller
North Carolina 1994	Excise Stamp 105.8E	48% allocated in proportions of 75% to Parks and Recreation Trust Fund and 25% to Natural Heritage Trust Fund	\$1 per \$500 or fractional thereof	Seller
Illinois 1989	Real Estate Transfer 35:200 Art 31	Open Space and Lands Acquisition and Development Fund, 35%; Natural Areas Acquisition Fund, 15%	\$0.50 per 500 and fraction thereof	Agreement between the parties
Pennsylvania 1964	Realty Transfer 61.91	Keystone Recreation, Park and Conservation Fund; 15%	1%	Seller and Buyer
South Carolina 1976	Deed Recording Fee 12.24	Conservation Bank Trust \$0.23 per \$1.35	\$1.85 per \$500 or fractional part of \$500 State \$1.30 per \$500 County \$0.50 per \$500	Seller
Tennessee 1986	Recordation Tax 67.4.409	Wetland Acquisition Fund, \$3.25 of tax Local Parks Acquisition Fund, \$1.75 of tax State Lands Acquisition Fund, \$1.5	\$0.37 per \$100 or major fraction thereof	Buyer
Vermont 1987	Property Tax Transfer 32.2.5.231	Vermont Housing and Conservation Fund 50% of revenues	1.25% of property value or \$1	Buyer
San Juan County, WA 1990	Real Estate Transfer 31-1400 16.54	Citizens Conservation Land Bank 100%	1%	Buyer
Martha's Vineyard, MA 1986	Real Estate Transfer 736	Martha's Vineyard Land Bank 100%	2%	Buyer
Nantucket, MA 1983	Real Estate Transfer Fee 669	Citizens Conservation Land Bank 100%	2%	Buyer

Table 3
Total Tax Revenue Generated by the Real Estate Transfer Tax in the 13
States and 3 Local Jurisdictions (\$ millions)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Arkansas	8.3	14.3	15.6	15.6	16.8	15.9	17.2	16.8	17.3	18.9	-
Delaware	31.3	32.7	34.8	37.6	37.6	37.6	39.7	38.5	39.2	50.2	-
Hawaii	-	-	3.47	2.83	3.00	6.92	9.77	9.53	10.5	9.82	-
Florida	-	-	-	-	885	1025	1179	1211	1305	1577	2012
Maryland	54.3	35.0	19.3	6.5	6.5	-	-	-	-	-	-
New Jersey	N/a	N/a	N/a	45.85	51.88	63.26	71.29	77.78	79.06	90.00	110.00
New York	149.56	162.6	187.41	181.61	194.49	-	-	-	-	-	-
North Carolina ¹	-	17.9	19.9	20.8	24.7	27.8	32.5	34.7	33.6	35.4	37.9
Illinois	29.5	28.8	34.6	33.3	39.2	47.5	53.7	57.7	59.6	-	-
Pennsylvania	-	207	175	178	200	241	257	271	-	-	-
South Carolina	-	-	-	-	-	-	-	-	31.95	33.16	-
Tennessee	-	-	-	87.0	67.6	66.6	73.3	72.6	72.0	79.2	86.4
Vermont	10.99	12.72	13.32	12.29	-	-	-	-	-	-	-
San Juan County, WA	-	-	-	-	-	-	-	2.2	1.7	2.1	-
Martha's Vnyd, MA	2.5	2.68	2.88	3.72	4.85	6.17	6.97	7.87	8.25	7.41	8.23
Nantucket, MA	2.8	3.7	3.7	5.2	6.0	7.95	9.2	12.5	8.8	8.9	11.9

¹ Reflects only 48% earmarked for conservation.

example, In North Carolina, the RETT legislation was supported by both the state's realtors association and its builders association. The legislative effort was spearheaded by a senator who was a realtor, an advocate of quality-of-life legislation, and a supporter of parks. He commissioned a parks and recreation legislative study and "went to bat" for the legislation supporting the trust fund. He then reached out to his contacts in the development sector and realtors, and educated them on how they would benefit from such legislation. This created initial momentum. There was a snowball effect, which over the 6 years it took to enact the legislation accelerated to the point where nonsupporters were placed on the defensive and required to justify why they were not on the "land side." Over 150 groups supported the effort, but the key to passing the RETT in North Carolina was the development of a public perception and an understanding of the positive connection between real-estate values and open space.

San Juan County, Washington, was similarly successful in abating negative activities from real-estate associations. Although a coalition of citizens came together to assist in getting the legislation passed in 1990, key momentum came when the local realtors requested state realtors not to work against it. The local association did not organize in favor of or against the legislation, but its role in asking the state association to stay out of the local initiative activities was critical. The positive impact of the legislation on the real-estate industry was affirmed in 2000, when the local realtors campaigned in support of the legislation's reauthorization!

Most of the successful RETT legislative initiatives have been spearheaded by coalitions from nonprofit conservation groups whose initial goal (cited in the cases of Florida, North Carolina, and New York) was to persuade key legislative leaders to include a RETT in their election platform. Thus, in Pennsylvania for example, the state park and recreation

society, land trusts, municipal associations, townships, county associations, local conservation groups, and the Nature Conservancy formed a coalition to lobby for the RETT, whereas in South Carolina the lobbying coalition comprised 45 business and environmental groups.

After the Martha's Vineyard, Massachusetts, initiative was introduced, it took 2 years before approval of the authorizing legislation was forthcoming. The effort was initiated by a group of interested town citizens. In Vermont, people wanted to protect the agricultural ambiance of the state because it was important to both the residents' quality of life and to tourism. Among Florida residents, legislators believe there is widespread acceptance of the tax.

The importance of having an extensive support coalition of a diversity of interests and perspectives was illustrated in Illinois in 2003. When a new governor attempted to redirect dedicated RETT revenues to the general fund and declare a "one-year holiday" for the Open Space and Lands Acquisition and Development Fund, there was widespread and vigorous opposition. Legislators reported they received more communications protesting that action and demanding the funds remain dedicated to parks and natural areas than for any other legislative issue in that session.

Stability and Leverage

There was widespread agreement among the RETT recipient administrators who were interviewed that the primary benefit of these dedicated revenues was to facilitate a stable ongoing plan for the acquisition and development of park and conservation resources. Thus, an impetus for the RETT in North Carolina was the lack of federal funds emanating from the Land and Water Conservation Fund. Their administrator commented, "It removes the stress and uncertainty associated with relying on federal funds and income." An associated benefit of financial stability is that it enables agencies to acquire institutional knowledge and memory, which expedites acquisition programs.

In Pennsylvania, the state program "is in better shape than ever before with Keystone." A Bureau of Recreation and Conservation spokesperson explained that funding used to be cyclical, since the agency had to scramble to obtain new funding every time bond money was used up. Similarly, New York's spokesperson reported that in the past, "relying on bonds created a bust and boom cycle" in which the program initially received a large amount of money from bonds, but by the end of the bond cycle, inevitably funds were not available for some projects that had been promised. These programs had to be placed on hold while awaiting new or additional sources of funding. Now, the consistent flow of dedicated RETT funds allows the agency to administer programs and financially plan on a long-term basis. In San Juan County, Washington, the RETT took the pressure off other county budget areas and removed the possibility of budget cuts for open space acquisition. In Illinois, the tax provided a stable funding source even in difficult years of economic downturn. Since the state had an active housing market, the funds continued to grow despite the state's financial

problems. Even in the recent difficult economic times, mortgage interest rates remained at a historically low level, so people continued to purchase homes.

Most jurisdictions use the RETT revenues to purchase park land. However, some use them to leverage local government or nonprofit entities to provide additional land by designating the revenues for matching grants. For example, South Carolina's Conservation Bank Trust, a program passed in 2002 with funding starting in 2004, is empowered to give grants. The funds are collected by the Department of Revenue and deposited into the Conservation Bank Trust. The state will not own land. Rather, it works through qualified entities that meet set criteria, which include being a 501 (c) (iii) organization; having experience in conservation and land management; being capable and reliable; having the assets needed to manage the land; and having the capacity to monitor and enforce easements. The New York Environmental Protection Fund uses a different funding model in that a fixed amount of the RETT revenues are not dedicated to it. Rather, the governor submits a proposed budget and negotiates the amount from the RETT to be allocated with the House and the Senate for conservation, parks, preservation, and farmland protection.

Many real-estate tax-funded programs increase their effectiveness by using the funds to leverage federal matching grant opportunities. For example, RETT funds have allowed Tennessee to apply for matching grants such as North American Wetland Conservation Grants and Federal Non-game Grants. These actions bring the state substantial additional funds. Similarly, Illinois' Natural Resources Land Acquisition Program has allowed the state to match and double funds almost every year. They consistently partner with nonprofit groups to write grants and acquire matching funds from federal and private grants.

At the local level, dedicating the revenues from a RETT to a land trust rather than the city or county general fund was done in both Nantucket, Massachusetts, and San Juan County, Washington. This means that the land trust board is not required to seek council or voter approval for acquisitions, so it is more flexible and better able to compete with other potential buyers in the marketplace. In San Juan County, the legislation does require the county commissioners to ratify the annual plan of work and budget. However, they cannot exercise a line-item veto. Thus, the plan can be approved or rejected in total. This system is intended to depoliticize the process and keep the selection of projects out of mainstream politics. Since projects are approved by the county commission after hearings by both the county and the land bank, the projects and program receive high visibility in the county.

Suggested Improvements to Enabling Legislation

Several respondents made suggestions that were specific to their context. In Pennsylvania, the authorizing code allows managers to provide many small communities with \$20,000 or less without a local match.

However, the act was passed in 1964, so this amount buys much less in 2004. A provision for making annual cost-of-living adjustments to this amount should have been included in the legislation.

Although in all the jurisdictions reviewed the RETT funds were dedicated, funds for such programs are sometimes diverted when states are in financial difficulty. This results from legislation being passed that “temporarily” redirects a portion or the full allotment of the RETT from the dedicated conservation purpose into the general fund. To counter this, Maryland’s Director of Program Open Space suggested inserting more challenging restrictions into the legislation, limiting the discretion of legislators and prohibiting the funds from being used for anything else. Such a mechanism would prevent legislators from declaring “real-estate tax holidays” and enforcing reductions.

Florida’s spokesperson suggested that the state should require a regular review of the percentage of the RETT allocated to conservation, but recognized that such an action could threaten as well as enhance the percentage. He also advocated audits or evaluations of projects receiving the funds to prevent politically motivated allocations to projects that are marginal to the central mission. Such reviews would assist in resolving issues in their formative stage before they become pernicious. Furthermore, such reviews would require programs to better justify their use of the funds.

The Illinois spokesperson was concerned that a portion of Illinois real-estate tax collections was used to pay general agency salaries out of the fund. In tight budget situations, it is tempting for legislators to shift staff salaries out of the general fund budget into the trust fund budget. Even in years when the number of staff remunerated out of the fund is not increased, staffing costs continue to rise because of cost-of-living and merit raises and increases in the cost of benefit packages. These staffing costs divert dollars away from acquisition.

Revenue Potential of Implementing a RETT in Texas

Texas is experiencing rapid growth and challenges to its traditional quality of life because of loss of open space and reduced access to park lands. It has been reported that

from 1982 to 1997 more than 2.2 million acres of rural land in Texas was converted to urban uses, and the annual rate of conversion from 1992 to 1997 was nearly 30 percent higher than in the previous 10 years. (Wilkins et al., 2003, p. 7)

This study also determined that Texas had the highest rate of farming and ranching land loss among all the states.

A RETT dedicated to parks and open space would contribute to alleviating some of these negative impacts. It would balance growth and conservation, and enhance quality of life, recreation opportunities, land values, and environmental quality within the state. Tables 4, 5, and 6 provide estimates of revenues that would accrue from a RETT at alternate

levels of taxation. Twelve of the 13 states that currently have a RETT for parks or conservation apply the tax to all real-estate sales, including non-residential properties. However, to this point it has not been possible to identify an annual figure of non-residential sales in Texas. Hence, the tables apply only to residential sales.

Table 4
Revenues that Would Have Been Generated from Alternate Real-Estate Transfer Tax Rates Applied to the Dollar Volume of Texas Residential Home Sales in the 1998-2003 Period (in Millions)

Year	Number of Sales	Volume (millions)	Amount of Real Estate Transfer Tax (million dollars)				
			0.1%	0.2%	0.5%	0.8%	1.0%
1999	184,056	\$24,300	\$24.3	\$48.6	\$121.5	\$194.4	\$243.0
2000	188,734	\$27,600	\$27.6	\$55.2	\$138.0	\$220.8	\$276.0
2001	195,401	\$29,400	\$29.4	\$58.8	\$147.0	\$235.2	\$294.0
2002	200,338	\$31,200	\$31.2	\$62.4	\$156.0	\$249.6	\$312.0
2003	214,006	\$34,200	\$34.2	\$68.4	\$171.0	\$273.6	\$342.0

Table 5
Alternate Real-Estate Transfer Tax Revenues that Would Be Generated from Homes of Different Values

Sale Amount	Amount of Real-Estate Transfer Tax				
	0.1%	0.2%	0.5%	0.8%	1.00%
\$100,000	\$100	\$200	\$500	\$800	\$1,000
\$150,000	\$150	\$300	\$750	\$1,200	\$1,500
\$200,000	\$200	\$400	\$1,000	\$1,600	\$2,000
\$250,000	\$250	\$500	\$1,250	\$2,000	\$2,500
\$300,000	\$300	\$600	\$1,500	\$2,400	\$3,000
\$350,000	\$350	\$700	\$1,750	\$2,800	\$3,500
\$400,000	\$400	\$800	\$2,000	\$3,200	\$4,000
\$450,000	\$450	\$900	\$2,250	\$3,600	\$4,500
\$500,000	\$500	\$1,000	\$2,500	\$4,000	\$5,000
\$550,000	\$550	\$1,100	\$2,750	\$4,400	\$5,500
\$600,000	\$600	\$1,200	\$3,000	\$4,800	\$6,000
\$650,000	\$650	\$1,300	\$3,250	\$5,200	\$6,500
\$700,000	\$700	\$1,400	\$3,500	\$5,600	\$7,000
\$750,000	\$750	\$1,500	\$3,750	\$6,000	\$7,500
\$800,000	\$800	\$1,600	\$4,000	\$6,400	\$8,000
\$850,000	\$850	\$1,700	\$4,250	\$6,800	\$8,500
\$900,000	\$900	\$1,800	\$4,500	\$7,200	\$9,000
\$950,000	\$950	\$1,900	\$4,750	\$7,600	\$9,500
\$1,000,000	\$1,000	\$2,000	\$5,000	\$8,000	\$10,000

Table 6
Alternate Real-Estate Transfer Tax Rates Applied to the Sale Price of the
Mean Value of Texas Homes in the Period 1999-2003

Year	Number of Sales	Mean Price	Amount of Real-Estate Transfer Tax that Could be Collected				
			0.1%	0.2%	0.5%	0.8%	1.00%
1999	184,056	\$132,200	\$132.20	\$264.40	\$661.00	\$1,057.60	\$1,322.00
2000	188,734	\$146,200	\$146.20	\$292.40	\$731.00	\$1,169.60	\$1,462.00
2001	195,401	\$150,400	\$150.40	\$300.80	\$752.00	\$1,203.20	\$1,504.00
2002	200,338	\$156,000	\$156.00	\$312.00	\$780.00	\$1,248.00	\$1,560.00
2003	214,006	\$159,800	\$159.80	\$319.60	\$799.00	\$1,278.40	\$1,598.00

Criticisms of RETTs

The National Association of Realtors (2003) has identified four major objections to RETT legislation: (a) RETTs are regressive and discriminatory; (b) the narrow base of RETTs violates the principle of horizontal equity; (c) RETTs are volatile and do not provide a stable source of revenue; and (d) RETTs reduce the ability of potential buyers to purchase a home. Each of these is addressed in the following subsections.

RETTs Are Regressive

If a RETT is assessed as a uniform percentage of the value of the property, which is typical of the RETTs reviewed in this paper, then it is likely to be regressive because its burden relative to income is likely to be greater on lower income people than on those with higher incomes. That is, people tend to spend a decreasing share of their total income on housing as income increases. This is true of all property taxes, not only RETTs. This issue could be addressed by making the tax progressive through exempting the first (say) \$100,000 of the sales price, or by setting the exemption equal to (say) two-thirds of the statewide median sales price:

For example, if a tax rate of 1 percent were applied only to the amount of the sales price in excess of \$100,000, the tax would be zero on properties up to \$100,000, \$500 on the typical \$150,000 residence (0.33 percent effective rate) and \$4,000 on a \$500,000 property (0.8 percent rate). (Citizens Finance Review Commission, 2003, p. 3)

A tax could be made even more progressive by applying a differential percentage tax rate that increased with increasing value of the property (for example, a 0.25% tax rate to the portion of the sales price exceeding \$100,000 up to \$250,000, and a 1% tax rate on prices exceeding \$250,000), but this would assign a disproportionate burden on commercial real-estate transactions.

The Narrow Base of a RETT Violates the Principle of Horizontal Equity

The principle of horizontal equity holds that people who are equal in income status should pay similar taxes:

A household that moves frequently, for whatever reason, does not derive additional benefits or place additional burdens on public services (except for minimal administrative costs) as compared to someone who does not move at all. (National Association of Realtors, 2003, p. 2)

This breaches the principle of horizontal equity in that a disproportionate amount of revenue from the tax is provided by a relatively small proportion of residents in a jurisdiction. The National Association of Realtors (2003) argues that “the narrow base of property transfer taxes places a larger burden on a small share of the population relative to broader based taxes” (p. 2) such as regular property taxes and sales taxes.

This rationale is specious since the broader based taxes are equally prone to abrogating the horizontal equity principle. Given two families that have the same annual income, if one invests in a more expensive house, then that family will pay more property taxes than the other even though both receive the same level of public services. Similarly, if one family purchases more material goods, or if it purchases more of its goods within the jurisdiction’s boundaries, then it will pay more sales taxes but will receive no commensurate increase in service level.

Volatility

Residential real estate is characterized by strong cycles. Home sales volumes declined by 50 percent from the late 1970s to early 1980s. In the early 1990s, sales again fell by 20 percent. Thus, real estate services would not provide a stable source of revenue if history were our guide. (National Association of Realtors, 2003, p. 7)

A RETT is especially attractive in jurisdictions where the population is growing and the real-estate market is active. However, volatility in the amount of revenue received is acceptable when a RETT is dedicated for the acquisition of park and conservation land for two reasons. First, such acquisitions are likely to be part of a coherent, long-range program, but they are “one-off” purchases. Unlike regular property taxes, RETT funds are not used for operating and sustaining daily services to residents. If less revenue is available in some years than in others, then this leads to less land being acquired in some years, which is acceptable. However, the second reason why revenue volatility is acceptable (which was discussed earlier in this paper) is that a likely corollary of downturns in housing sales is the cost of land is lower, so less revenue from a RETT is likely to be required to purchase a given amount of park and conservation land. Thus, volatility in the amount of land acquired is likely to be lower than volatility in revenues available from a RETT.

RETTs Reduce the Ability to Purchase a House

Realtors typically claim that RETTs make housing unaffordable and cause housing markets to stagnate: “Increased closing costs on the transfer of existing residential property are likely to reduce the ability of new and

current home buyers to purchase a home” (National Association of Realtors, 2003, p. 2). There is no empirical support for this position. The Association recognizes, “There is no research on closing costs that would allow us to conduct a precise measurement of the effect of new taxes on real estate transactions” (p. 7).

Those least able to pay a RETT are likely to be interested in purchasing property at the low price end of the market. If the first (say) \$100,000 is exempted from a RETT, as was suggested earlier in this paper, then this concern dissipates. It seems unlikely that a RETT would restrict potential buyers from purchasing moderate- and high-priced houses, given that its amount is so low compared to the price of these properties. A real-estate attorney who has been prominently involved in the long-term advocacy of Florida’s RETT is adamant on this point:

There is not a real estate transaction anywhere—residential or commercial, low price or high price—that’s not happened because of the documentary stamp tax [Florida’s RETT]. I can say that unequivocally. It is never part of the decision to buy and sell. The only issue is how the buyer and seller are going to split it. (Policy Link, n.d.)

Concluding Comments

A RETT dedicated to parks and conservation provides a relatively reliable source of revenue for acquiring land for those programs. There is a nexus because land development often decreases recreation opportunities at the same time that it creates the need for more recreation areas. This makes it an appealing source of revenue for parks and conservation and enables it to be conceptualized as a form of “user fee.” In most jurisdictions at this time, advocating any form of new taxation is unlikely to receive any political support. However, repositioning a RETT as a “user fee,” which alleviates the burden of taxation on the broader community and transfers it to program beneficiaries, makes it politically a more feasible proposition.

The marketplace determines the maximum price for which a property will sell. Critics are likely to point out that the amount of the total price that is claimed by a RETT is in effect a net reduction in the revenue that accrues to the selling property owner. However, some proportion of the property’s value is likely to be attributable to park and conservation amenities. To the extent that sellers have not paid for those amenities through broad-based taxes (that is, they were paid for by a RETT or other funding source), they have received “windfall gains.” That is, some of the amenity value that is capitalized into their properties’ sales prices was paid for by others. A RETT may be viewed as a mechanism for recapturing some of this “windfall gain” by enhancing the community’s amenities without the general taxpayer funding them.

Opposition to RETTs is most frequently led by realtors’ organizations but, as the previous section illustrated, their objections to them may not be

convincing. Prima facie evidence of the weakness of the realtors' case is the execution of a RETT by 37 of the 50 states, and by a growing number of local jurisdictions. However, 12 of the 37 state RETTs use at least part of the revenue to fund housing trusts for low income housing. Their use for this purpose provides a clear benefit to the real estate industry by increasing their business, so preparing a RETT that is used for housing and for parks and conservation may be an effective preemptive strategy for gaining support of real-estate interests. Based on the evidence and conceptual arguments reviewed in this paper, it seems likely that many other jurisdictions will explore the political feasibility of enacting RETTs in the future for park and conservation purposes.

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