TO:                        Board of Governors
                        Section Chairpersons
                        (Designated to Receive Public Statements)
FROM:                     Carol Ann Cunningham
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

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

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."
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

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

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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
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