

## N.H. is first in the nation – for its transfer tax

### REAL ESTATE

By **Bradley Vear**

Here's a good trivia question for your next social gathering:

Besides the national primary, what does New Hampshire lead the nation in? Answer: real estate transfer taxes.

It's true. New Hampshire holds the unenviable position of having the highest real estate transfer tax of any state in the country.

If you really want to stump your audience, ask this follow-up question: How much is New Hampshire's transfer tax? The quick answer will probably be 0.75 percent (75 cents per \$100). Anyone who bought/sold a property recently might remember the "state tax/stamps" line item on the closing statement – it calculated 0.75 percent of the sales price – and put it in their column. But that answer is only half right. Since both buyer and seller pay 0.75 percent, the actual tax is 1.5 percent (\$1.50 per \$100) of the actual sales price. Who says New Hampshire does not have a sales tax?

Wait a minute, you say. Surely our neighbors to the south must levy higher fees. Nope – Massachusetts' transfer tax is less than a third of New Hampshire's, at a rate of 0.456 percent. Maine, maybe? Try 0.44 percent. Certainly Connecticut has us beat. Guess again — Connecticut's rate is 0.5 percent up to \$800,000, then 1 percent over \$800,000. God forbid, we can't be higher than New York City? Fuhgettaboudit – even the Big Apple is less taxing than our Live Free or Die brethren when you transfer real estate.

How did this happen? Actually, it just sort of evolved. Like any good tax, it started small, kept a low profile and grew in small steps. From 1968 to 1972, the transfer rate was 0.1 percent of the real estate sales price (10 cents per \$100). Then in 1972 it bumped to 0.15 percent and to 0.25 percent in 1977. In 1981, the rate doubled to 0.5 percent, but this hike was camouflaged by some clever wording. Instead of quoting the total transfer tax rate as 0.5 percent, the legislation cleverly worded the transfer tax as simply one-half of that rate, or 0.25 percent, but added that it was now to be imposed on both the seller and the buyer. This clever wording stuck as the

rate continued to move – it doubled again in 1983 to 1.0 percent before backing off a little in 1985-89. It increased to 1 percent (\$1 per \$100) in the 1990s, until 1999 when we managed to finally push ahead to No. 1 in the country by setting the rate at 1.5 percent — where it remains today.

Consider how the transfer tax is worded in the New Hampshire statute: "The rate of the tax is \$.75 per \$100, or fractional part thereof, of the price or consideration for such sale, grant, or transfer." So doesn't this mean that the tax rate is only 0.75 percent? Ah, no, you need to finish your reading assignment. There you will find two paragraphs – one refers to the purchaser and the other to the seller – that describe who pays this transfer tax. These paragraphs are identical except for seller/buyer. Creative writing has created an illusion that the transfer tax is only half the rate it actually is. I remember when, in 1999, a hike in the transfer tax was being proposed. Virtually all of the news articles and editorials said that the transfer tax change being proposed was from 50 cents to 75 cents per \$100, with little mention that this was only half of the tax imposed.

Is this tax significant? I think it is. It is a regressive sales tax that imposes costs of 1.5 percent (\$1.50 per \$100) on every real estate transaction, which is comparable to bank "points" applied on the total sales price. It is a disproportionately high tax that is assessed only on real estate. It has a negative impact on housing costs and economic development in the state. It is paid in addition to any capital gains taxes and business profits taxes and is indifferent to any losses. It creates a competitive disadvantage for New Hampshire with a rate that is more than twice that of other New England states.

Transfer taxes is one area in which New Hampshire does not want to brag about being "first in the nation." **NHR**

*Bradley Vear, principal of Vear Commercial Properties Inc., Nashua, has been a real estate adviser to small companies and individual investors throughout southern New Hampshire and northern Massachusetts since 1986. He can be reached at 882-6000 or on line at vear.biz.*