This Week in State Tax (TWIST)

June 22, 2026

District of Columbia: Court of Appeals holds transaction attracts real estate transfer tax, also addresses proper date of valuation

The highest local court in D.C. has ruled that the transfer of an office building as part of a transaction between two related parties was subject to deed recordation and real estate transfer taxes. The court also held that the transfer should be valued at the market value as of the date the deed was recorded, rather than when the transaction was completed some years prior to recordation. D.C. law imposes a 1.1 percent tax on the recordation of a deed or other document transferring real estate in the city as well as an additional 1.1 percent transfer tax on such transactions. The tax is based on the consideration paid for the real estate, and the taxes are payable upon recordation or other transfer document with the Recorder of Deeds. Real estate transferred as part of a merger is subject to tax, but transfers as part of a conversion are not.

In the instant case, a partnership and an LLC, related parties, engaged in a transaction in which an office building was transferred to the LLC and the partnership ceased to exist after the transaction under documents entitled “Articles of Merger”. The transaction and transfer took place in 2002, but no deed or other transfer document was filed with the Recorder. In 2019, as the LLC prepared to sell the building to an unrelated party, it filed a “no consideration” deed with the Recorder, describing the transaction as a conversion of the partnership to an LLC and the transfer of the building to the LLC for no consideration. The Recorder considered the transaction to have been a merger and assessed transfer and recordation taxes based on the 2019 value of the building. The taxpayer paid the tax under protest and filed for review of the assessment in D.C. Superior Court, which upheld the actions of the Recorder. The taxpayer then sought review by the Court of Appeals.

The taxpayer raised two arguments. First, it argued that transaction was a conversion, and not a merger, and was thus not subject to the transfer and recordation taxes. It noted that the owners of the partnership were the same as the members of the LLC and their relative share of ownership was the same both before and after the transaction. It also argued that, if tax was due, the amount should have been based on the value when transferred, rather than the date of recordation as used by the Recorder.

As to the nature of the transaction, the appellate court noted that all the relevant documents identified the transaction as a merger with the LLC being the surviving entity. Further, it said that while taxpayers are free to structure their affairs with distinct entities, they “must operate consistently and not seek treatment as individuals when that would better suit their interests….” As to the proper valuation date, the court characterized the question as “a close one,” but it found that valuing the property as of the date of deed recordation was the better argument. Specifically, it noted that under D.C. law, the duty to pay the recordation and transfer taxes arises at the time of

recordation, and not at the time of transfer. Further, basing the valuation on the date of transfer could lead to manipulation. The taxpayer also raised an issue that D.C. law granted deference to actions of administrative agencies which was improper under the U.S. Supreme Court *Loper Bright* decision. The Court of Appeals determined it was not necessary to address that question as it agreed with the Recorder without regard to any deference. For questions on *LHL Realty Company DC LLC v. District of Columbia* (22-TX-0820, June 11, 2026) or assistance with real estate transfer tax matters, please contact Michelle Dohra.