# REAL ESTATE CONVEYANCE TAX

**and**

# CONTROLLING INTEREST TRANSFER TAX


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DISCUSSION DRAFT

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## Executive Summary

Key Facts and Findings

Transfer taxes are widely used throughout the United States with the tax imposed in 35 states. In 15 of those states the state and local rates are less than 0.5%. Many jurisdictions earmark transfer tax revenue to acquire and protect open space and address other environmental pressures arising from real estate development. In some cases, states share the revenues with local governments. Many states adopted a transfer tax when the federal government repealed its Documentary Stamp Tax. Connecticut was one such state.

In Connecticut, Real Estate Conveyance (REC) tax is the only taxes imposed by both the state government and municipalities. The tax is, by statute, paid by the seller when the deed is registered. The town clerk collects both the state and local portions of the REC tax and then transmits the state tax revenues to the state Department of Revenue Services. Both the state and municipalities consider these revenues as part of their general revenues. Because of the limited revenue raised from these taxes, their consideration is often less transparent, with details of the taxes often consigned to “other sources” by the state or combined with municipal property tax at the local level.

Real Estate Conveyance (REC) tax, unlike property taxes, is imposed only when real estate is sold or transferred and is based on the value of the consideration paid for the property. As an ad valorem tax, tax revenues are sensitive to real estate market conditions. Therefore, tax yield is a function of both the number of transactions and the value of the property transferred.

Real Estate Conveyance (REC) tax is the only tax other than the property tax available to municipalities. The structure of the tax, including the rate and definition of taxable transactions, is set by state statute. State statute does provide some rate flexibility to certain designated municipalities, those identified as targeted investment communities. These 18 communities may impose an additional rate, up to a maximum rate. All designated communities impose their permitted optional rate.

The Controlling Interest Transfer (CIT) tax is imposed by the state when Connecticut real estate interests are transferred through the sale or trade of controlling interests of a corporation, partnership or similar type entity. Since the transfer is effectuated through transfer of interests in the property rather than the transfer of a deed, the REC does not apply. By design, the tax applies to those transfers that are not covered by the REC. As such, it incorporates much the same structure as the REC and a rate at the time of adoption was the maximum state rate and the general (but not the optional) local rate. By imposing both the REC and CIT, Connecticut real estate transfers are taxed by the state, regardless of how the transaction is structured. The CIT, however, is only a state tax and all revenues are state revenues.

Yet the REC is of additional importance beyond its capacity to generate revenue. Information garnered at the time the tax is paid plays a critical role in property tax administration. REC tax is based on the consideration paid for real estate.  At the time a deed is registered and the tax paid, this information is available and provides the local assessor's office with up to date information as to the fair market value of the property for property tax purposes.  Similarly, the state uses such information in an effort to equalize property values statewide.  In addition to collecting the REC, the town clerk also collect recording fees that are applied to deeds and other legal documents.  These fees, unlike the REC are flat fees or flat per page charges set by the state.  Revenues from these fees are shared with the town clerk's office, the municipality, and the state, with the major portion going to the state.

During the recent recession, both real estate prices and taxable transactions declined in Connecticut, resulting in significant decline in revenues.  The exemption for distressed transfers such as foreclosures and short sales as well as other exemptions may have led to an increase in the percentage of non-taxable transactions.

For the state, transfer tax revenues have been slower to recover from the 2008 recession than all other state revenues and slower than from the 2002 recession.  Municipal REC flat rate was last raised in 2003 to 0.25 percent from the original rate of 0.11 percent when the tax was enacted in 1967.  The increase was enacted on a temporary basis and made permanent in 2011.  At that time the state rates were also increased.

The state rate is not a flat rate and the rate depends on the use of property with a graduated rate for single family properties.  The maximum state rate, applied to the value of residential property in excess of $800,000 and all non-residential property, is 1.25 percent.  All other transfers are taxed at 0.75 percent. When the rates were increased in 2011, the state earmarked a portion of the revenues from rate increase to the Municipal Relief Fund.  The fund was established to distribute relief to local governments to reduce the impact of state-mandated property tax exemptions.  This earmarking of the REC was in effect for two years.  All state revenues are now part of the state's general revenues.

The combined maximum state and municipal rate is 1.75 percent for transactions in targeted communities and 1.5 percent in all other municipalities.  This rate is significantly higher than state rates in Massachusetts and Rhode Island.  However, in both states, a limited number of local governments also impose transfer taxes, with rates in some jurisdictions higher than those in Connecticut. The rates in New York, especially for residential property in New York City, are substantially higher than the combined rates in Connecticut.  This is particularly true when one takes into consideration that Connecticut's rate for the high-end residential properties is a marginal rate that is applied only to the portion of value in excess of $800,000 while the higher rate in New York applies to the total value of the residential property over $1 million.

For municipalities, the REC, as part of the general revenues of the government, reduces property tax levies.  However, the impact of the revenues on property tax mill rates is relatively small.

Residential properties account for a significant portion of taxable conveyances, even during the recent recession. In municipalities where residential properties are a smaller portion of the property tax base, the REC reduces the property taxes imposed on other sectors.

Preliminary investigation suggests that higher local REC rates in targeted investment communities do not significantly impact on the price of real estate or the number of transactions. This finding is not consistent with other research that found that such taxes did have a negative impact on both sales and price. The differences in findings may be due, in part, to larger tax differentials in the studied localities than those in Connecticut.

Options

1. Retain the three components of the Real Estate Conveyance (REC) tax – state, municipal, and targeted investment communities—and the state Controlling Interest Transfer (CIT) tax at current rates.

2. Retain the local tax including the optional rate for the targeted investment communities and repeal the state component of the REC and the state CIT. With repeal of the state rates, provide optional rates for municipalities.
   - Pro argument
     i. Retaining the local tax provides some local alternative revenue diversity.
     ii. Retaining the optional rate for the targeted investment communities allows some local flexibility.
     iii. Extending optional rates provides all municipalities with a small degree of flexibility in determining their local revenue mix.
     iv. Deed registration is a local responsibility with the municipalities providing the service. They should retain all the revenues.
   - Con argument
     i. Repealing the state CIT eliminates assurance that all transfers of real estate are subject to a transfer tax. With no CIT tax, property can be transferred through transferring of entities rather than by transferring deeds.
     ii. Repealing the state REC will not remove the local responsibility to provide the state with information about consideration paid for real estate.
     iii. With no state reporting, administrating transactions that involve properties in more than one jurisdiction is more difficult. Currently such information is captured on the reporting for the state REC.

3. Retain the state taxes (REC and CIT) but repeal the REC local components, including authority for the optional tax in the targeted investment communities.
   - Pro arguments
     i. Retaining the two state taxes assures that all property transfer are subject to a transfer tax.
     ii. Information critical for property tax administration is still available as the state REC would continue to be collected locally when the deed is registered.

iii. Horizontal equity between properties transferred in targeted investment communities and in all other municipalities is restored.
iv. At the local level, the loss of the REC does not have a substantial impact on local revenues as property taxes can be raised to replace the local REC revenues no longer available.
v. There may be a shift of the overall local tax burden to the extent that the residential share of the REC was greater than its share of the property tax.
vi. Any impact on the real estate markets resulting from the targeted investment communities' additional rate is mitigated.

- Con arguments
  i. Local property taxes would have to be raised to replace the REC revenue or other budget adjustments made.
  ii. Municipal revenue diversification, as limited as it is with the REC, would no longer exist.
  iii. Eliminating the optional rate for targeted investment communities reduces the modest amount of taxing flexibility these communities have.

4. Upon removing the local portion of the tax in Option 3, increase the state REC rates by the 0.25 percent local rate and permanently earmark the increased revenues attributed to the rate increase for regional activities or for additional funding of the Community Investment Fund (the state fund financed with revenues from document registration fees).
   - Pro arguments
     i. The 0.25 percent rate increase is revenue neutral to the seller of property, except in the targeted investment communities in which case, the new rate is lower.
     ii. Several options for earmarking would complement existing state efforts such as to encourage local involvement in regional approaches, to reinstate REC funding to the Municipal Relief fund, or to combine with registration fees currently earmarked to the Community Investment Fund.
   - Con arguments
     i. Local property taxes would have to be raised to replace the REC revenue or other budget adjustments made.
     ii. Targeted investment communities would sustain a revenue loss.
     iii. Municipal governments may perceive the shift as a state takeover without the state providing adequate replacement.
     iv. Revenues for earmarked spending may not reflect local preferences.
     v. Earmarking revenues may not prevent future diversion of funds for other state purposes.

5. Upon removing the local portion of the tax in Option 3, increase the state REC rates by the 0.25 percent local rate and distribute 30 percent of the revenues to the jurisdictions that collected the revenues.
   - Pro arguments
     i. The 0.25 percent rate increase is revenue neutral to the seller of property, except in the targeted investment communities in which case, the new rate is lower.

        ii. To the extent that the higher state rate would apply to certain transactions, municipalities would receive more revenue than they would have with the flat local rate.
- Con arguments
    i. Municipal revenue diversity is diminished.
    ii. The state rate increase is equivalent to a 33 percent increase of the lower rate and a 20 percent increase of the higher rate. State would experience a revenue loss to the extent that transactions were taxed at the higher rate.
    iii. The targeted investment communities would no longer have any local revenue flexibility and would sustain a revenue loss.

6. Increase the CIT rate from 1.1 percent to 1.5 percent which is the current maximum state REC rate and the general municipal rate. The CIT rate, when the tax was adopted, matched the maximum state rate and the flat local rate. Since the state REC rate was increased in 2011 and the higher local rate made permanent at that time, this is no longer the case.
    - Pro argument
        i. As a matter of equity, the CIT rate should be identical to the REC rate paid for the transfer of non-residential property.
        ii. Currently no CIT revenues are shared with municipalities. Revenues generated from the increased rate could be earmarked to a state priority such as regional activities.
        iii. Even at the higher rate, the Connecticut rate is below that of some neighboring states.
    - Con argument
        i. The business community will object to the higher rate.

7. In conjunction with raising the CIT rate suggested in Option 6, permit proportional taxation of value of property when less than 100 percent of directly controlled interest is transferred.
    - Pro argument
        i. As a matter of equity, the value of property held of indirectly controlled entity (subsidiary) is taxed in proportion of the share of controlling interest transferred. When a directly controlled entity transfers controlling interests, regardless of the share or portion of interest transferred, the CIT is assessed at the full value of the directly held Connecticut property even if less than 100 percent is transferred.
        ii. Such option may mitigate opposition to the rate increase in Option 6.
    - Con argument
        i. Changes to the existing provisions may be perceived as a benefit favoring only a few entities.
        ii. Because of limited data available, determining which entities would benefit and the revenue impact was not possible.

8. Provide additional local optional tax rate for communities to impose a regional REC.
    - Pro argument

    i. An optional tax may provide incentives to individual communities to develop more regional approaches to development.
    ii. With the authority for optional rates, municipalities may improve the progressiveness of the tax by imposing a graduate rate, as Stamford has recently done for higher priced properties.
    iii. Program would complement recently enacted Property Tax Base Revenue Sharing Program aimed at developing regional approaches.
    iv. Such use of optional local taxes has been successful in other communities in the U.S. that experienced development pressures.
    v. To the extent that differential tax rates do not have an adverse impact on real estate markets in Connecticut, the differential rates at the local level will not distort market activity.
- Con argument
    i. Municipalities may perceive the program as an attempt to mandate more regional approaches without providing necessary resources.
    ii. To the extent that differential tax rates do affect the real estate market, some communities may be experience market distortion.

# I. Introduction

In this report both Connecticut's Real Estate Conveyance and Controlling Interest Transfer taxes are considered. The Conveyance Real Estate tax includes a state tax and two local components, one applied uniformly statewide and an optional rate available to 18 designated municipalities identified as targeted investment communities. Both the state and the applicable local taxes are imposed upon the sale or transfer of property when the deed of the transferred property is registered with the local town clerk. The tax is imposed on the consideration paid and is not considered a tax on registering the deed. The Controlling Interest Transfer tax is paid directly to the state when controlling interest in an entity that includes Connecticut real estate is transferred.

Section 2 details the two Connecticut taxes. Revenue collections from these taxes provide a context as to the importance and volatility of these taxes as a revenue source, especially for the state's general fund. The history and structure presented here includes statutory basis and rate history of both, focusing primarily, but not exclusively on the changes since 2005. The description covers when a transaction is taxable, including a discussion of the types of exemptions.

Section 3 presents the trends of the taxes, particularly the REC tax. Revenue trends are examined in light of the real estate market, taxable transactions and exemptions.

Section4 looks at how extensively the real estate transfer taxes have been adopted throughout the United States. Certain aspects of the Connecticut taxes, including rates and exclusions are compared with the taxes in New York, Massachusetts, New Jersey, and Rhode Island. A general review of these taxes in all states is also presented.

Section 5 reviews the impact of these taxes on the issues of reliability or volatility and the incidence of the tax, especially at the municipal level.

The final section, Section 6, includes the conclusions.

## II. Main Features of the Connecticut Transfer Taxes

### II.1 Purpose of Transfer Taxes

Real estate transfer taxes are ad valorem taxes imposed when real estate has been sold or transferred. The importance of these taxes, especially when a transaction is effectuated with the transfer of a deed, was highlighted at the time the federal government was considering repealing its transfer tax, the Documentary Stamp tax. As cited by the Advisory Commission on Intergovernmental Relations,

> [T]he usefulness to the States of the by-product information [is that] the sales price of property can be derived from the Federal stamps attached to deed documents. The relationship between the assessed value and the sales price,…by means of assessment-sales ratio studies, is a valuable tool for improving the administration of property tax assessment."(ACIR 1964)

While the federal tax provided state and local governments with essential information concerning current real estate prices, reporting the true value was problematic. Further because of the limited revenue generated, federal enforcement of the tax had been minimal. The federal government, specifically the Internal Revenue Service, believed enforcement was better addressed at the state level. Because of the importance of the information for effective property tax administration, when the federal government repealed the Documentary Stamp tax, they encouraged states to adopt their own transfer taxes. Connecticut was such a state, adopting the Real Estate Conveyance tax in 1967 as a local tax.

### II.2 Structure of Real Estate Conveyance Tax and Controlling Interest Transfer Tax

The Connecticut Real Estate Conveyance (REC) tax was initially enacted as a municipal tax in 1967, effective January 1, 1968 (Laws 1967 P.A. 693). The tax was designed to be a replacement for the then-repealed federal Documentary Stamp Tax. Like many other states that adopted a transfer tax at that time, Connecticut adopted a tax that was structurally patterned after the federal tax (Connecticut Attorney General 1989 89-020). The initial tax was initially a local tax, collected by the town clerk at the time the deed was registered with the tax based on the consideration paid.

In 1983 the tax was expanded to include a state component and in 1989, the state adopted the state Controlling Interest Transfer Tax (Laws 1989 P.A. 251). This new tax applied to transfers that were structured as a transfer of controlling interests in real estate rather than a sale evidenced by a deed (Ruling 99-7). The CIT is designed to mitigate the structuring a transfer so as to avoid the REC. By imposing both the REC and CIT, Connecticut real estate transfers are taxed, regardless of how the transaction is structured.

In addition to the REC ad valorum tax imposed when property is transferred, local governments collect a flat rate registration fee at the time a deed is registered. A portion of the revenues from these fees is retained and used to support local town clerk offices and other local services with a portion shared with the state. The sharing arrangements and the state usage of the funds is detailed in text box 1.

**Text Box 1: Recording Fees Applied to Deeds and Other Legal Land Documents**

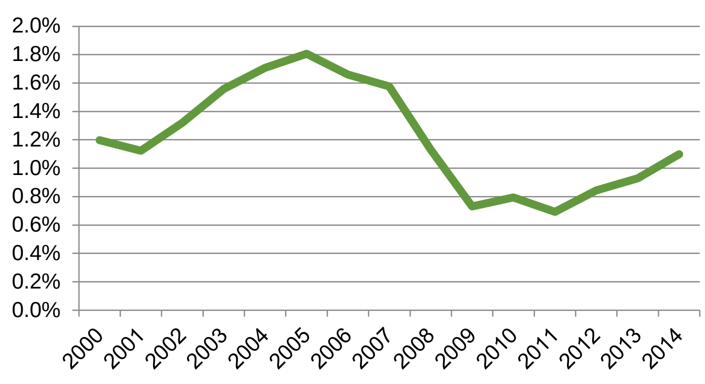
In addition to the Real Estate Conveyance Tax, recording fees are imposed for recording land-related legal documents, such as deeds, mortgages and land surveys (CGS Sec 7-34a). The fee is a flat fee or a per page charge depending on the type of document and is payable when documents are recorded. It is paid to the town clerk who is responsible for maintaining the public records. . While the collection of the fee and the maintenance of public records are the functions of the town clerk, these fees are shared with the state. The general fees were raised in 2011, to $40 from $30 for the first page of any document. The $5 charge for each additional page remained unchanged. In spite of the fee increase, the local share of $4 was unchanged. In 2013, an additional fee on certain mortgages was imposed at a substantially higher rate, $116 for the first page. This fee applies to those mortgages that the nominee for the lender is electronically registered, MERS. These fees are shared with the state, with about one-third being retained by the municipality and the remaining two-thirds forwarded to the state.

The local share of $4 is earmarked with $1 to be used for the town clerk's office and the remaining $3 to be in the general fund to be used for capital improvement projects. The state share is deposited in the Community Investment Fund which is distributed to local governments for historic preservation, open space, preserving farmland and affordable housing (CGS §4-66aa(a)).

## II.3 Transfer Tax Revenues in Context of Connecticut's Overall Revenue Picture

The state transfer tax revenues do not represent a substantial share of the state's overall revenues. Over the past 15 years, these two taxes account for less than 2 percent of the state's total revenues, with the REC revenues accounting for more than 90 percent of transfer revenues (Figure 1). Because of their limited contribution to the state's total revenues, these taxes are often consigned, along with similar smaller revenue streams to "other sources" in many discussions. However, these taxes, especially the REC, play a critical role in the administration of the property tax and introduce some important policy issues.

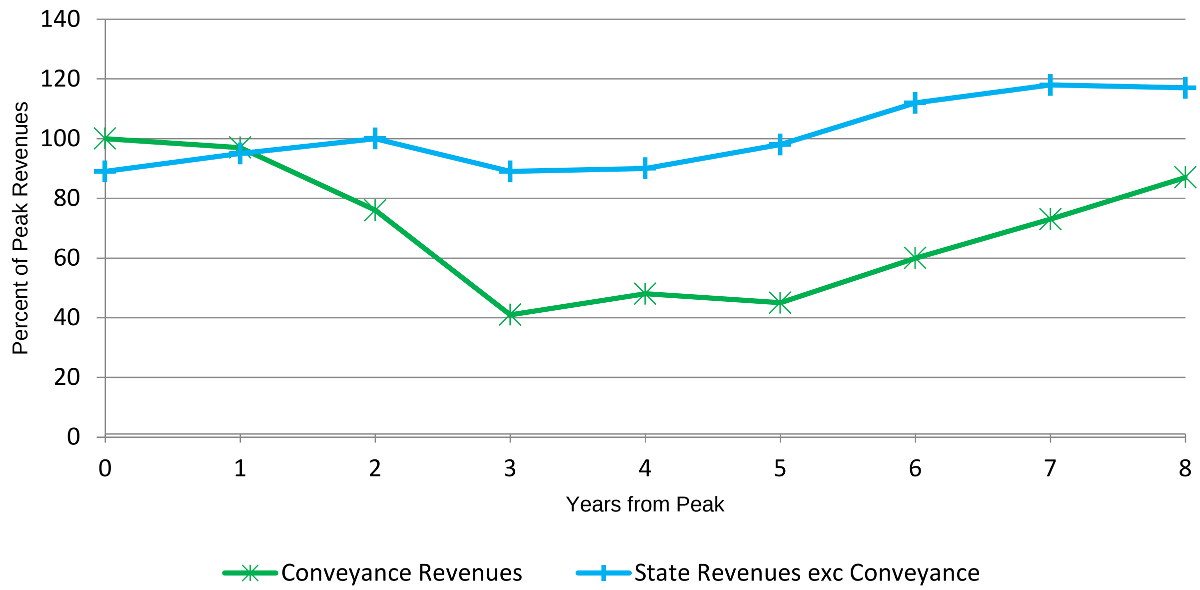
Figure 1
Connecticut Transfer Tax Revenues as Percent of State Revenues
2000-2014




Source: DRS Annual Reports

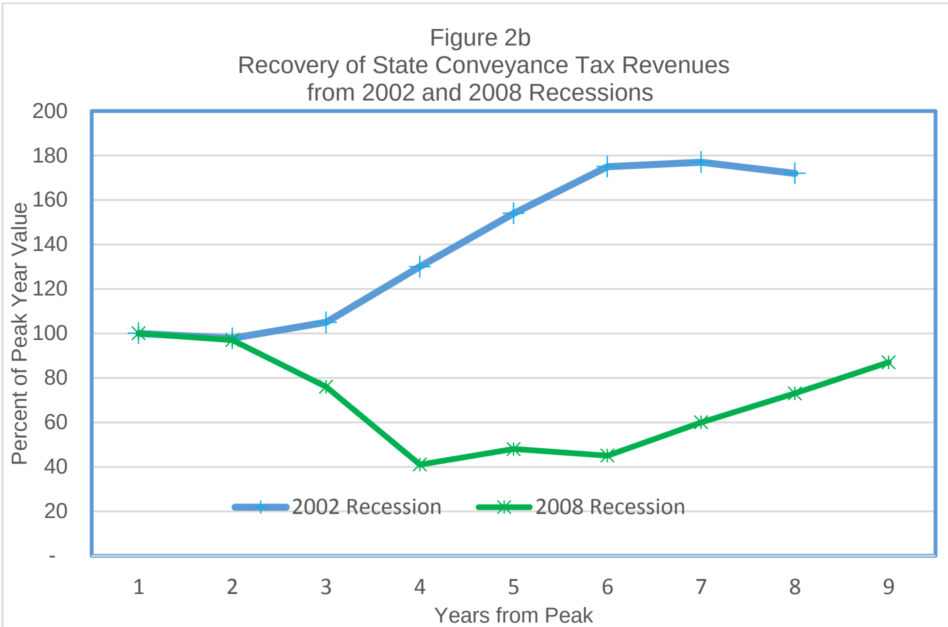
Factors widely identified as contributing to the collapse of the housing bubble and the ensuing recession—relaxed mortgage standards, rapidly rising housing prices, low short-term mortgage rates, and increased rate of homeownership—played a major role in running up the market with their decline resulting in a steep reduction in transfer tax revenues in Connecticut. During the run up of real estate prices, growth in transfer tax revenues outpaced other state revenues with transfer taxes' share of state revenues peaking in 2005. However, the decline of transfer tax revenues began sooner. As shown in Figure 2a, the decline in these revenues began sooner, was deeper and their recovery slower. Even after eight years, transfer revenues remain nearly 15 percent below their pre-recession level while all other state revenues have recovered.

**Figure 2a**
**Recovery of State Conveyance Taxes and All Other State Revenues from 2008 Recession**




This slow recovery can be attributed to several factors. As has been well documented, the 2008 recession was a "housing market collapse" so it is not surprising that transfer tax revenues were so adversely affected. Real estate prices, especially for single family homes, declined and increasingly homeowners found themselves in a negative equity position or worse, being foreclosed (Federal Reserve Bank of New York, 2012). In addition to the collapse of the housing market, the state expanded some of its long standing exemptions specifically for distressed transfers, which further reduced revenues. Not only did the number of transaction decline, but the percent of exempt transactions rose dramatically. Details of the exemptions are discussed below and a fuller revenue history of both the REC and CIT and the number of taxable transactions is set out in Appendix 1.

The importance of the housing market to these revenues becomes evident in comparing the recovery of the revenues after the 2002 and 2008 recessions. The rapid recovery of revenues after the 2002 recession is reflective of the housing boom, which continued until the bubble burst and the onset of the recession. As shown in Figure 2b, the 2002 recession had little negative impact on transfer taxes. Instead, residential real estate prices continued to increase from 2000 to 2007, even by double digits between 2002 and 2005, pushing up the revenues. With the collapse of the housing market, however, the revenues began to decline in 2008 and have yet to fully recover.




**II.4 Tax Base of Real Estate Conveyance and Controlling Interest Transfer Taxes**

Both the REC and CIT taxes are imposed on the grantor or seller at the time of sale or transfer. The CIT applies when more than 50 percent interest in an entity that holds Connecticut real estate is transferred, along with a change in beneficial ownership. Transferring property when there is a change in identity or form of ownership does not trigger either tax.

Prior to the state's adoption of the CIT tax, the state relied on how the federal government had applied its stamp tax to corporations. As corporate transfers became more common the state moved to structure a tax that addressed such transfers. The adoption of the CIT was designed to assure that all transfers, regardless of the form the transactions took, would be subject to a transfer tax (Law 1989 Act 251). The two taxes are complementary so that any transaction is subject to only one tax. For both taxes, the tax applies only if the value of the Connecticut real estate is $2,000 or more.

State stature has clarified that the tax is imposed on the value or market value of the conveyance and not on the act of registering the deed. The tax is imposed on the value or consideration of the property. If there are a series of transactions over a period of six months, all the transfers are considered as a single sale or transfer. This is designed so that the transfer of successive transactions of interest, each of which is less than 50 percent but taken together would be more than 50 percent, would not be exempt from the tax. Similarly, property that is divided and sold as separate parcels would be considered as a single sale or transfer.

The transfer of more than 50 percent of the interest is measured by combined voting power of all stock, or capital, profits or beneficial interest. The tax also applies to property indirectly held by the traded entity. When direct interests are transferred, the basis of the tax is the value of the real estate that is transferred. The tax is applied to the whole value and is not proportional to the percent of interest transferred. For example, if a partnership holds Connecticut real estate valued at $1 million and that partnership transfers 75 percent of its interest in that entity to an unrelated entity, the CIT tax would be assessed on the full $1 million value of the property. If, however, the transferred property is indirectly held, the tax is applied to the proportion of ownership transferred.

The tax is applied to the consideration paid, including any liens and mortgages that the grantee (buyer) may assume. While the notion of self-declaration had been identified as an issue with the federal tax, it is somewhat mitigated for the REC as the value appears on the deed and closing documents for certain transactions often have the consideration listed. Such information is more often available when the buyer is financing the purchase and the HUD form 1 is required showing the consideration going to the seller. The value of real estate is not as evident when the transfer involves the sale or trade of controlling interests, particularly with more than real estate or more than one piece of property is involved. As the returns for the CIT are filed with the state, audit responsibility rests with the Department of Revenue Services. A summary of the key factors of both the REC and CIT are presented in Appendix 2.

### II.5 Exemptions

The state initiated the REC tax to replace the repealed federal tax and adopted some of the federal structures and exemptions. However although the federal tax made a distinction between exempting certain parties and exempting certain types of transaction,[i] Connecticut makes no distinction. As a result, transactions may be exempt based on characteristic of the seller, such as when the state or political subdivision is a party of the transaction, or the seller is eligible for certain property tax programs. Other exemptions apply to the circumstances surrounding the transaction, such as when the transfer is at the direction of a court decree. Another group of exemptions applies to the location of the property, such as transactions that involve property in redevelopment areas. Currently property located in enterprise zone or entertainment districts or similar economic development designated areas are exempt for state but not local tax purposes.

The exemptions can be divided into four types: generally accepted exempt parties or transactions; transactions that reflect some financial hardship endured by the property owner; transactions between members of the family; and corporate activities. This last group of exemptions prevents those transactions from being taxed under both the REC and CIT. Also included in this last group are those transactions that reflect no change in beneficial ownership. A summary of the exemptions is presented in Table 1.

**Table I**
**Exemption for Connecticut Real Estate Conveyance Tax**
**CSG §12-498**

**General**

Dimenius value less than $2,000
Prohibited under Constitution or federal law (i.e. Freddie, Fannie)
Secure a debt or release of property
State or municipality is party
For the Adriaen's Landing or stadium facility
To a water company-Class I or II (watershed areas and reservoirs) (state only)
Property located in enterprise zone or entertainment district or similar economic development designation (state only)
Bona fide gift
Conveying a cemetery lot or plot
Made to any nonprofit organization for holding undeveloped open space land

**HARDSHIP**

Tax Deeds or sales
Pursuant to decree of Superior Court or judgment of foreclosure by market sale
In lieu of foreclosure transferring principal residence
Any instrument transferring principal resident where gross prices insufficient to cover mortgage and taxes (short sale)
Principal residence of low income disabled or elderly who receive property tax assistance (state only)
Conveying property to trustee for the benefit of debtors creditors
Sale without use or occupancy

**FAMILY TRANSACTIONS**

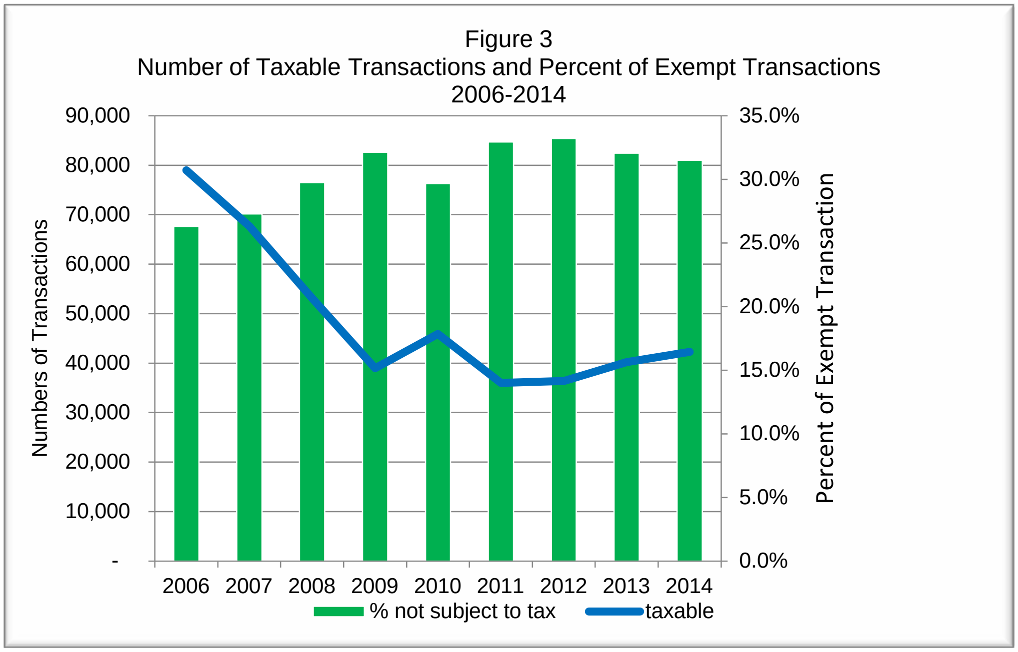
Between Spouses
Pursuant to court order dissolving marriage
Inherited real estate
Gifts between spouses or from parent to children
Personal residence less than $200,000 consisting of contract to purchase

**CORPORATION TRANSACTIONS**

Deeds of partitions
Court order partitions of joint and common estates
Deeds mergers of corporations
Deed made by subsidiary corporation to parent for no consideration
Between affiliated corporations of 501 (c)
Mere change of identity no change in beneficial ownership
Release of property which is security for a deed
Within 6 months acquired under relocation plan
Pursuant to federal bankruptcy court
Controlling Interests more than 50%
Dissolution of corporation and property conveyed to shareholders
Long-term leases

Several of the exemptions, although in place for many years, deal specifically with the economic hardship problems that arose during the housing crisis. Exemptions apply to transactions such as tax deeds or sales, foreclosures, and transferring principal residence in lieu of foreclosure and the transferring of principal residence where the gross price is insufficient to cover outstanding mortgage and taxes. One exemption, the one for transferring principal residence properties in lieu of foreclosure, was repealed for one year and then reinstated at the time the exemptions for short sales was added, effective as of October 1, 2010.

Although the exact nature of the exemptions is not always captured when the REC is reported, the fact that the transfer is exempt is captured. In recent years, the percentage of exempt transactions has increased. As shown in Figure 3, the number of taxable transactions has declined shown as the line graph corresponding to the left axis. During the same period the percentage of exempt transactions, shown as the bar graph increased. If one assumes that 2006 reflects more normal market conditions about 25 percent of transactions were non-taxable, such as transfers between husbands and wives. The housing crisis resulted in homeowners facing loss of equity in their homes and having to sell their homes or losing them altogether through foreclosure. The result was an increase in the number of exempt transactions. In addition to the exemption of foreclosed property, properties that were acquired and then sold by Freddie Mac and Fannie Mae were also not taxable.[ii] Unlike New York and other states, the buyer is not responsible if the seller is exempt. Therefore these types of transactions remain exempt.




## II.6 Tax Rates

Over time, the rates and rate structure have changed. The changes are outline in table 2. As mentioned previously, the local rate has remains a flat rate along with the optional local rate. The state rate structure however, has changed from a flat rate to one that differentiates between type and value the property transferred

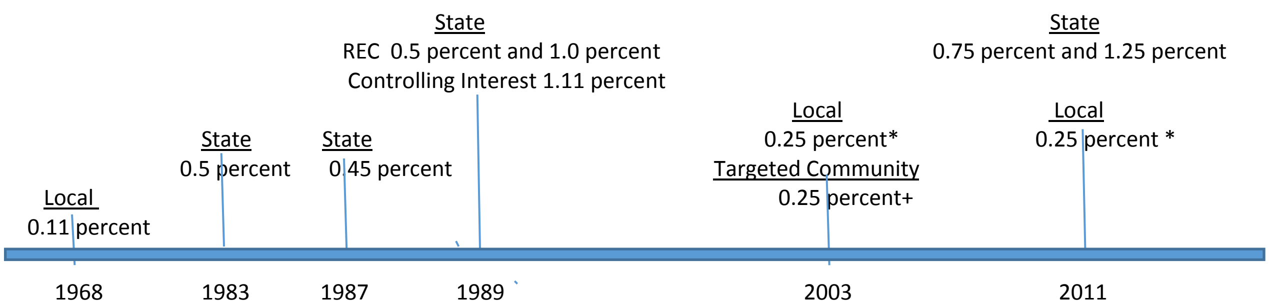
The initial REC enacted in 1968 was set at 55 cent for properties valued between $100 and $500 and 55 cents for each addition $500 or fraction of $500. In 1983, when the tax was extended to the state, the legislature changed how the local rate was presented, with the tax imposed at the equivalent rate, $1.10 for each $1,000 or fraction of $1,000 (0.11 percent). Beginning in 2003, the state raised the local rate to 0.25 percent on a temporary basis for fifteen months and continued to extend the higher rate until it made the rate permanent in 2011.

At the same time that the state initially raised the local rate temporarily in 2003, it also provided additional optional rate, also on a temporary basis, for targeted investment communities. The tax was extended to eighteen targeted investment communities, including Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham. These communities were allowed, with local approval, to impose the tax at an additional 0.25 percent rate, for a total local rate of 0.50 percent. This optional rate was made permanent in 2004 and in 2005 was modified so the targeted communities could impose the optional rate up to 0.25 percent. All the targeted communities impose the optional rate. All except Stamford have imposed it at the maximum rate. Recently, as of January 2015, Stamford increased its rate from 0.15 percent to 0.25 percent for properties in excess of $1 million (Resolution No. 3687).

Table 2

Rate History of Connecticut Real Estate Conveyance and Controlling Interest Transfer Taxes

Time line not to scale




*Temporary rate increase enacted 2003 and renewed until made permanent in 2011.

+Targeted community rate initially temporary, made permanent in 2004 and amended to permit rate to be up to 0.25 percent

Based on CGS 12-494

The initial state rate was nearly double the local rate at that time, a rate of 0.5 percent. It was lowered to 0.45 percent in 1987. In 1989 the rate was increased and differential rates were imposed, creating a graduated rate for residential homes. The differential rates were imposed based on the nature of the property, predicated on the predominate use of the seller (Ruling 89-41). For unimproved land which includes farm and forest land and open space, non-dwelling residential properties, identified as apartment buildings, and the first $800,000 of residential dwellings, the rate was 0.5 percent. The value of residential property in excess of $800,000 and non-residential property were taxed at 1.0 percent. In 1989 when the Controlling Interest Transfer tax was adopted the rate was set, reflecting the combined local rate (0.11 percent) and the non-residential property rate (1.0 percent), at 1.11 percent.

Farm, forest, open space and maritime heritage land are considered unimproved if the owner meets the criteria established for being classified as such for property tax purposes and therefore taxed at the lower rate. If however within ten years of the transfer, the land is converted to some alternative use and no longer can be so classified, an additional tax is imposed. The penalty is 10 percent of the value of the property if the change occurs in the first year of transfer with percentage reduced for each year the land use has not changed. When the change of use occurs, the local assessor notifies the state that the change has occurred so as to assess the penalty.

In 2011, the state raised rates, with the rate structure presented in Table 3. The lower tier was increased to 0.75 percent from 0.50 percent which applied to unimproved land, that portion of residential dwellings $800,000 or less, non-dwelling residential, and delinquent mortgages held by financial institution. The higher tier rate was increased to 1.25 percent from 1.0 percent.

Table 3
Real Estate Conveyance Tax Rates
As of July 1, 2011

| | |
|---|---|
| Unimproved land,<br>Residential dwellings,$800,000 or less<br>Residential, non-dwelling<br>Delinquent Mortgages | 0.75% |
| Residential dwelling portion above $800,000<br>Non-residential land other than unimproved | 1.25% |
| All municipal governments | 0.25% |
| Targeted Investment Communities | Up to 0.25% |

Source: Department of Revenue Services Annual Report

As part of the legislative package that increased the rates, the state created the Municipal Revenue Sharing Account (MRSA) that was funded in part by the revenues attributed to the increased REC rates. MRSA funds were distributed first for manufacturing transition grants to replace commercial vehicles and manufacturing machinery and equipment property tax exemptions. The remaining funds were distributed on a per capita basis and according to an existing tax relief formula (P.A. 11-§§93, 95-96 & 103). While the increased rates remain in effect, the revenues attributed to the rate increase were included for only two years, fiscal years 2012 and 2013. The fund was reinstated in 2015, but REC funds are no longer distributed to the MRSA.

While the increased rates help to offset the 2008 recession's effect on the real estate market, the increases were not sufficient to stabilize the state's revenues. Both real estate prices and the number of transactions, adversely effected at the outset of the recession, were slow to recover. In the next section we examine the revenue trends in terms change in the value and number of transactions as well as the size and nature of the residential portion of the tax base.

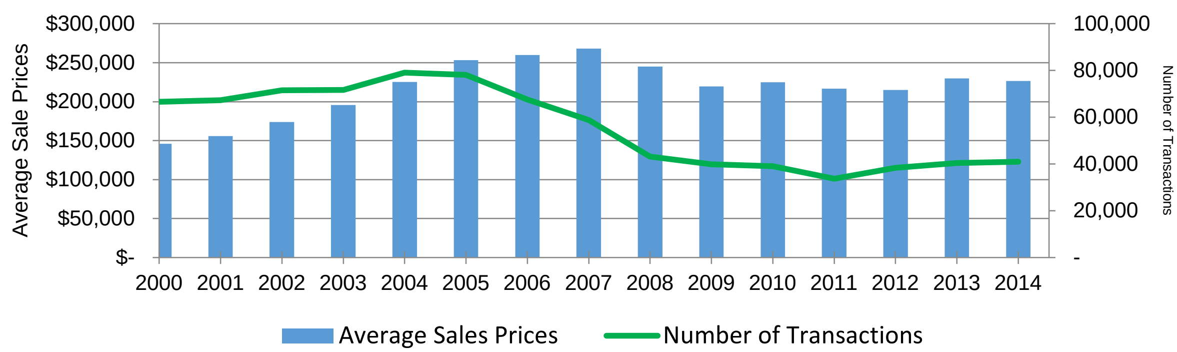
## III Trends of Factors Critical to the Connecticut Real Estate Conveyance Tax

### III.1 Real Estate Sales and Housing Price

Because the tax is imposed on the value of real property at the time of sale, the revenue is sensitive to market conditions-- both market activity and real estate prices. The 2008 Recession and its resultant lower real estate prices, reduced mortgage activity, decline in home sales, and credit crunch all combined to adversely affect transfer tax revenues. The effect of the recession on the Connecticut housing is shown in the housing sales statistics from the Warren Group[iii]. As shown in Figure 4 both the average sale price of single family and condominium residential properties rose between 2000 and 2007, to a high of $267,950. As prices grew during this period, sales began to slow.

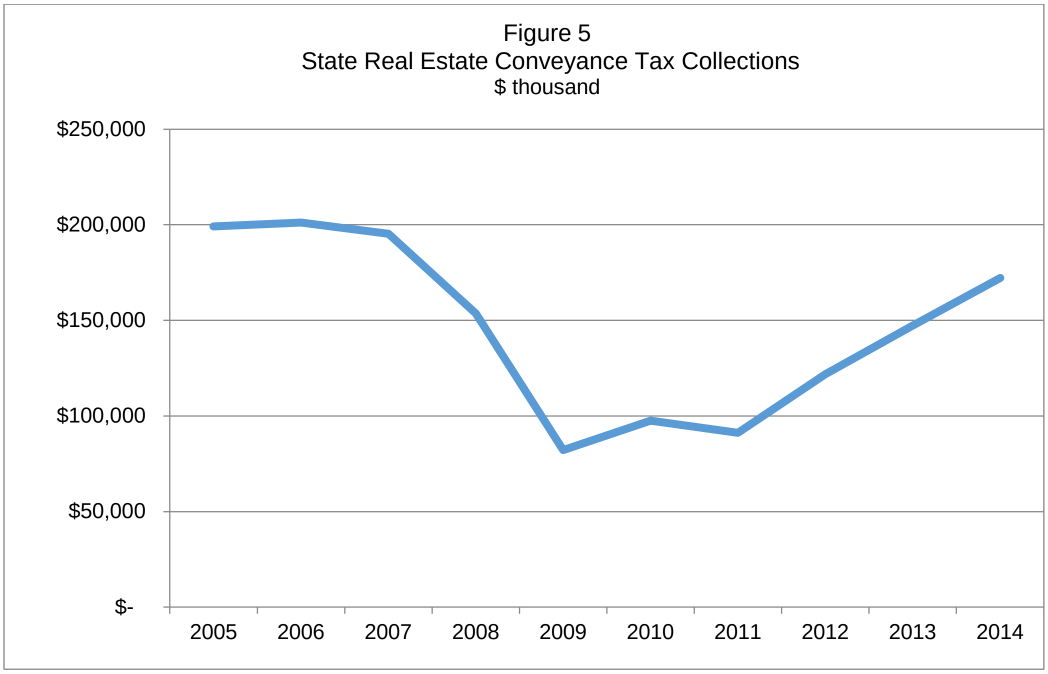
Annual sales of residential property continued to increase until 2004. They then began to drop precipitously after 2005, declining by about 10,000 sales a year for the next few years. By 2008, annual sales had declined from 79,132 in 2004 to 43,163. Annual sales continued to decline, such that by 2011 annual sales were only 33,671, less than half of the peak level.

Figure 4
Annual Connecticut Housing Sales and Average House Prices
2000 -2014



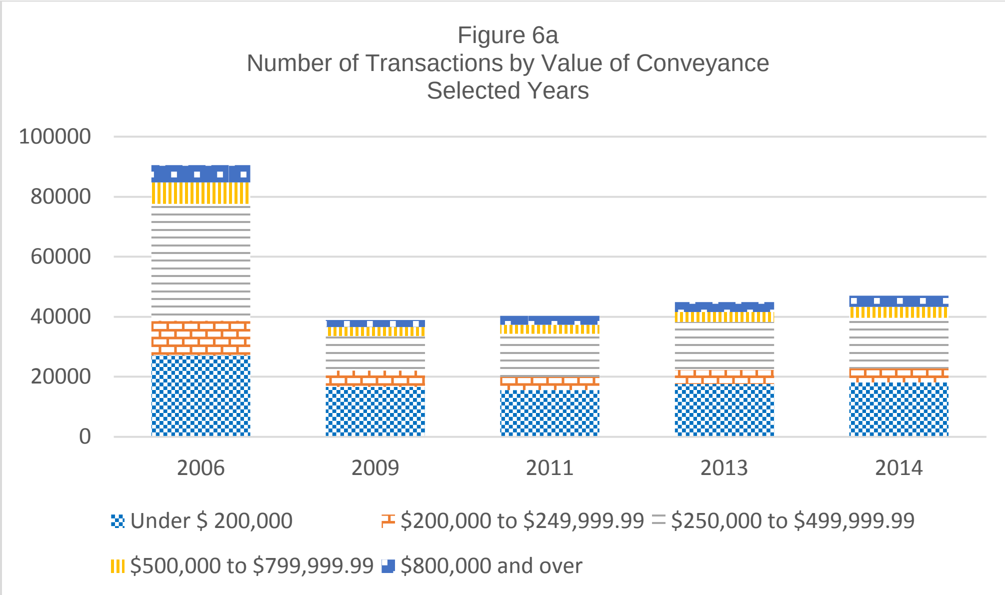

Source: The Warren Group Town Stats

With the drop in both prices and the number of sales, the revenues from the REC dropped substantially, declining by 35 percent between 2007 and 2012. State revenues, as shown in Figure 5, show a sharp decline between 2006 and 2009, with only modest recovery since then. The revenues remain far below the 2006 peak and as of 2014 were only at the 2004 level.

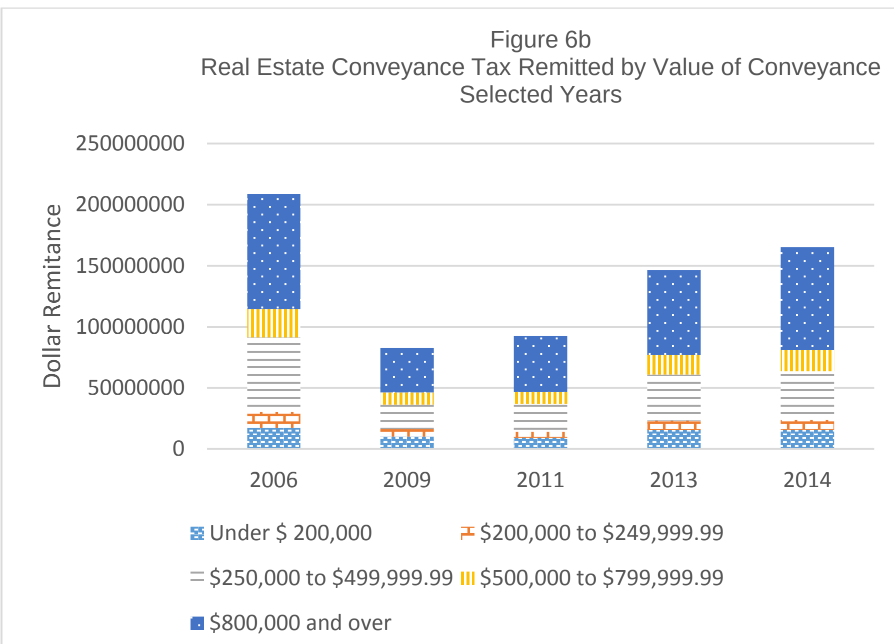



**III.2. Trends by Size of Conveyance**

The falling real estate market and its slow recovery was not uniform across the whole real estate market in Connecticut.  Transactions declined in all segments, but as shown in Figures 6a, the middle market segment—conveyances in the $250,000 to $500,000 range were the hardest hit.  This is a segment of the market that is critical across all income groups.  Prior to the onset of the recession, conveyances within the middle market accounted for 43 percent of the transactions and dropped to less than 30 percent in 2009.  By 2014, there was modest recovery with its share increasing to 35 percent.  In addition to the reduced share of the number of transaction in this segment, the number of exempt transactions is concentrated in this middle market.




A similar pattern emerges when revenues are considered. The steep declines seen in Figure 6b are attributed to this same market segment, $250,000 to $500,000 and to those in the $800,000 and over segment which are taxed at the higher rate. Not surprising the share of revenue from the more expensive properties, those $800,000 or more has shown greater recovery. Although a part of the growth in 2013 and 2014 is attributed to the 2011 rate increase, it was not sufficient to offset the effects of the slow real estate market.

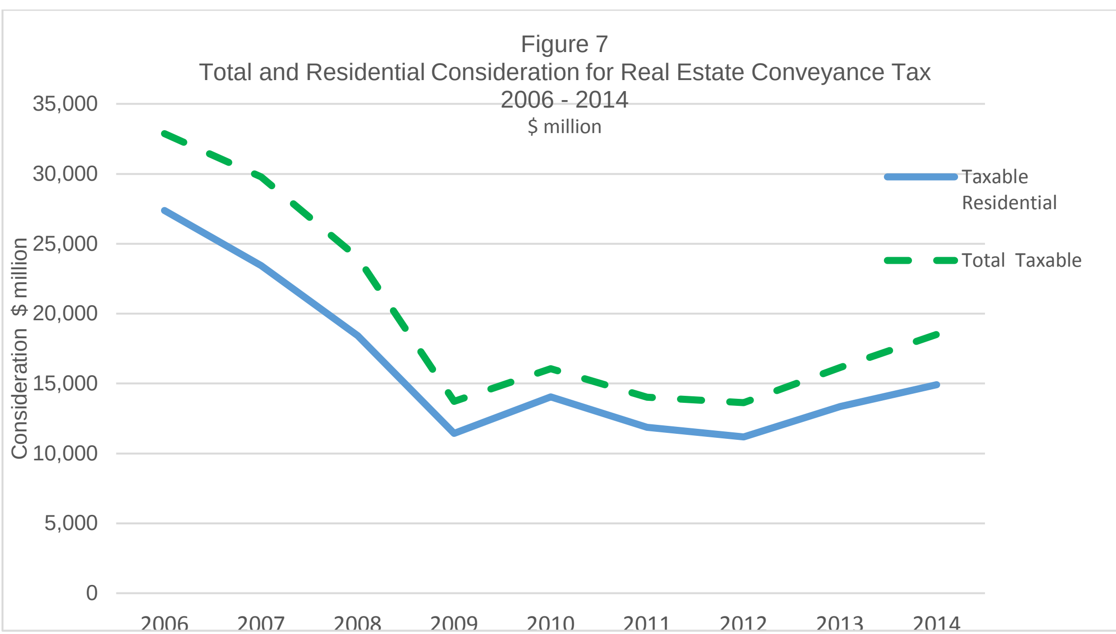


Residential transfers are a critical component of the REC. As the study, Connecticut Tax Incidence issued by the Department of Revenue Services pointed out, 79 percent of the REC tax is paid by Connecticut residents (Department of Revenue Services, p.56). A major factor in the revenue picture is the reliance on residential transactions. Notwithstanding the recession, residential property conveyances and the consideration of those transactions represented a substantial portion of the REC.

Text Box 2: Why Consideration rather than Taxes

Because of the differential tax rates for residential properties, it is not possible to estimate the amount of state tax revenues attributed to residential properties. The higher rate on conveyances of single family homes, classified as residential dwellings, is applied to that portion of value above $800,000. The initial $800,000 is taxed at the lower marginal rate, which is also applied to other residential transfers. Similarly because of the two rates, the tax revenue is not based on just consideration, but also the type of property. Since the pattern of tax revenues (Figure 5) is similar to that of the consideration (Figure 7), the assumption that residential conveyances account for a substantial portion of the REC tax seems reasonable.

Residential properties, specifically single family homes are the driver of the taxable consideration. Although the number of taxable transactions and their value declined dramatically as a result of the recession, the residential shares remained consistent. They account for 90 percent of the transactions and 80 percent of the consideration. In 2006, single family homes transactions accounted for 90 percent of the transactions and over 80 percent of the value of the conveyances. From the peak, through the trough and into the recovery, residential properties maintained about the same proportion of transactions and consideration. This relationship is shown in Figure 7.



## IV. National Picture of Real Estate Transfer Taxes

### IV.1 State and Local Transfer Taxes

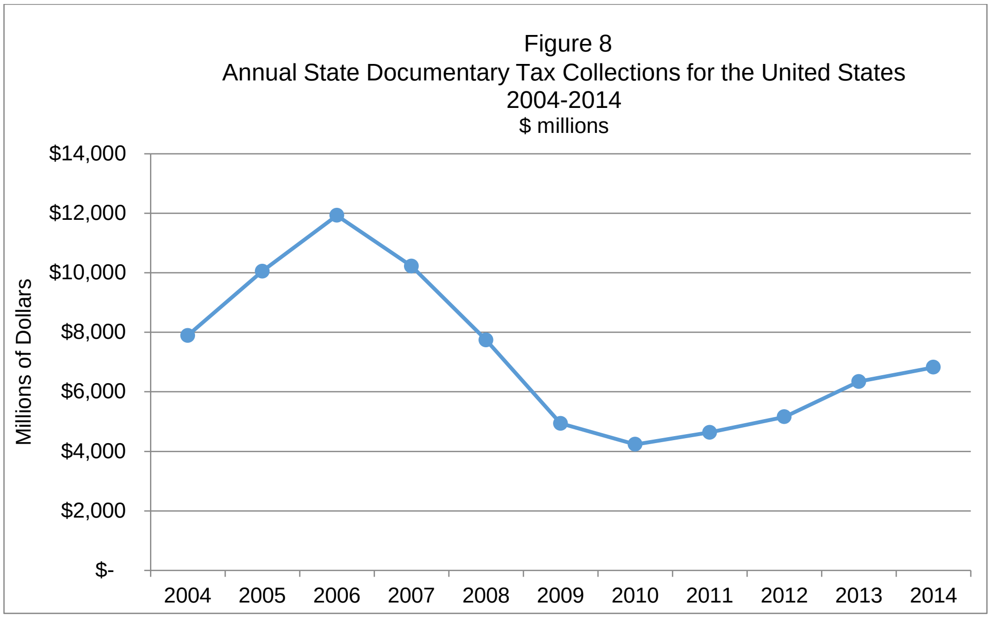
Real estate transfer taxes are widely used in the United States although not as broadly as income or sales taxes. Across the county, real estate transfer taxes are imposed in 35 states. This number is not likely to increase, as several states that currently do not impose the tax have constitutional bans on transfer taxes (Atkins 2015). .

In those states that have a real estate transfer tax, many adopted at the time of the repeal of the federal documentary stamp tax. However, the taxing arrangements vary greatly. In some cases it is solely a state tax, such as in Georgia and Iowa. In other states, it is solely a local tax, as in Ohio and California. Few states have arrangements like Connecticut, with a state tax, a local tax and an optional tax for designated local governments. Only Nevada and West Virginia have the three components although not all options have been adopted.

The experience during the recession among the other states is similar to that in Connecticut. Real estate prices dropped dramatically, particularly for residential properties. Nationally, housing prices fell 27 percent from their peak in July 2006 to the trough in February 2012, according to the S&P/Case-Shiller Index. Although prices are improving, they remain just under 10 percent below the peak, at a level equivalent to prices in April 2005. Lower housing prices, however, did not translate into housing market resurgence. Home purchases and lending dropped dramatically, with new mortgages dropping by two-thirds, from 7.4 million at their peak in 2005 to 2.4 million in 2011. Although loans are increasing, in 2013 they were only at the 2008 level (Bhutta 2014).

Overall, transfer tax revenues took a hit and now are only slowly recovering. As reported by the U.S. Bureau of Census, state revenues from real estate transfer tax peaked in 2006 but the effect of the recession lasted longer and had greater impact for the country as a whole. Nationally, as seen in Figure 8 the revenues declined through 2010, with revenues declining by more than 65 percent. Recovery has been slower. By 2014 the revenues grew by less than two-thirds while in Connecticut the revenues doubled. However both for the nation and Connecticut, the revenues are still below their peak.

Those states that saw a dramatic decline in housing prices had a substantial decline in transfer tax revenues. This is most evident in Florida and Nevada. Prices from peak to trough fell more than 40 percent in Florida and 55 percent in Nevada and revenue decline was greater with both states experiencing a 70 percent drop. In other states, the decline in revenues was not quite as substantial, more in the range of Connecticut’s loss. This suggests the fall off of transactions, similar to the conditions Connecticut experienced.



Source: U. S. Bureau of Census, Annual Survey of State Government Tax Collections

## IV.2 Range of Rates among the States

Few states have rates as high as Connecticut's combined rates. Of the 35 states where the tax is imposed, 14 have rates less than 0.5 percent. In Ohio, there is no state tax but counties are required to impose the tax at 0.1 percent and they have the option to impose up to an additional 0.3 percent.

In some states, rates are above 1 percent, but in those states the rate is imposed in only a few specific local jurisdictions. For example, in Florida, the rate for non-residential property in Miami-Dade County is 1.05 percent, which is a combined state and county rate. Outside of Miami-Dade, the rate is 0.7 percent. In California, San Francisco has a top rate of 2.5 percent for properties over $10 million, but the rate in most counties is a more modest, 0.11 percent. A full listing of the rates, including state, mandated local, and optional local rates is set out in Appendix 3.

Within the region, there are some striking differences in the rates and structure of the real estate transfer taxes. Massachusetts, New York, New Jersey, and Rhode Island each has a state transfer tax. Like Connecticut municipalities, all New Jersey counties impose the transfer tax in addition to the state tax. However, no local options, either for other local governments to impose the tax or for counties to impose the tax at a higher rate, are available. In New York only those local governments that have specific state legislative authority can impose the tax. Although such authority is not widely available, New York City does have authority and as discussed later, the rates are significant. In Massachusetts, the state imposed a transfer tax with a surcharge, but only three counties, Barnstable, Dukes and Nantucket, have local authority. This is similar to Rhode Island where the state has the tax and two localities, Towns of New Shoreham and Little Compton also impose the tax. Notwithstanding the two communities, Rhode Island local governments are not authorized to impose the transfer tax. However, they benefit directly from the tax as the state shares the revenues with the jurisdictions. While a little more than half the proceeds is distributed to the state for dedicated and general purposes, the remainder, approximately 48 percent of the collections, is retained by the local jurisdiction where the deed is registered and the taxes paid.

In Massachusetts and Rhode Island, except for the few counties and localities that have their own authority, the rates are substantially lower than Connecticut's state rate. The rates are 0.456 percent in Massachusetts and 0.46 percent in Rhode Island. The local taxes are higher for all but Barnstable County. The local rates are between 2 and 4 percent, with the local revenues used to protect sensitive open space areas.

New York and New Jersey have a rate structure that is more complex than Connecticut's. New York's is complicated because of the overlapping authority with local governments. While the state rate applicable to most properties is low, 0.4 percent, the tax imposed on expensive residential properties, those valued at $1 million or more are taxed at 1 percent. Although this is lower than the 1.25 percent in Connecticut, the higher rate in Connecticut applies only to the value in excess of $800,000. For property in New York City the rates are higher than the local rates and like Connecticut's state rate, different rates apply to different types and value of properties. The rates imposed on the sale of a $1 million residence in New York City would be the state rates of 1.4 percent including the general and "mansion" taxes and the New York City rate of 1.425 percent for a total 2.825 percent. Although New York splits the taxes between the grantor (seller) and grantee (buyer), both are responsible.

The transfer tax in New Jersey has multiple components. One is a basic fee with flat state and county rates. There is a state graduated fee for properties in excess $150,000 and different schedule for properties above $350,000. A fourth fee is a fee shared with counties to replace certain state funding with the state portion earmarked for special education aid and municipal property tax relief aid. The final component is for properties in excess of $1 million which is solely a state tax. This last component was initially imposed just on residential properties but has been extended to commercial properties as well (Laws of 2006, Chapter 13).

### IV.3 Exemptions

One factor affecting the yield of the tax as well as addressing certain equity issues is the granting of exemptions. The tax is generally imposed on the seller. However, in some states, as it was Federal Documentary Stamp, when the grantor (seller) is exempt the grantee (buyer) is responsible for payment. Such arrangements may have the effect of mitigating exemptions that, for policy reasons, are intended to eliminate the tax on certain sales. As is discussed in the next section, the statutory imposition of the tax on the seller may not always reflect the economic impact. Connecticut makes no distinction between an exempt seller and exempt transaction. If the transaction is exempt no tax is imposed. This is not the case in New York and New Jersey. In New York both the seller and buyer are responsible for the tax. If the seller is exempt then the buyer is responsible for paying the tax.

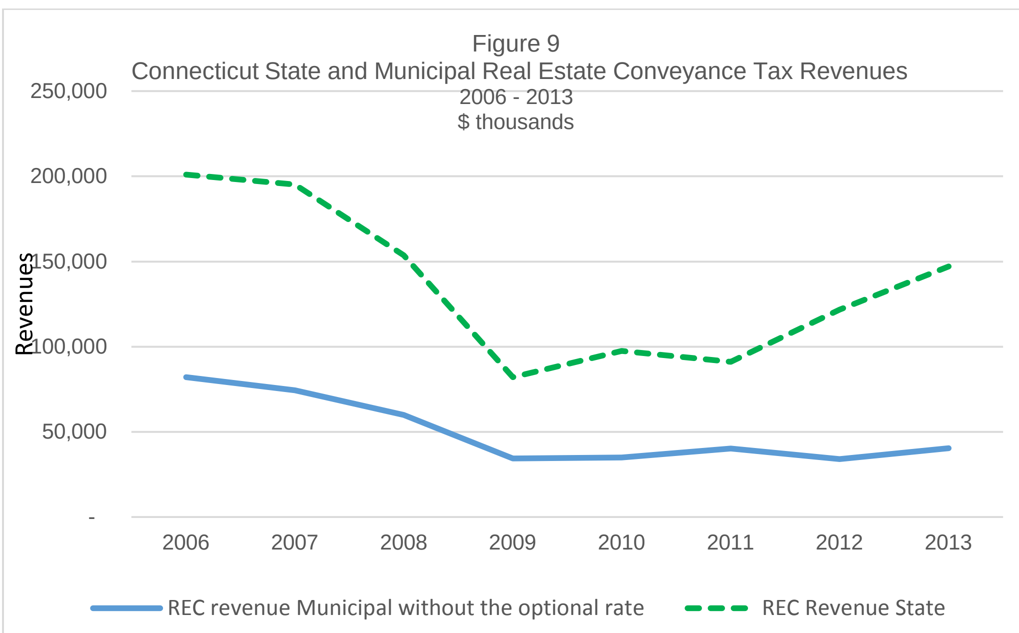
As discussed previously, Connecticut has an extensive list of exempt transactions, some of which are widely adopted in other states. These exemptions include transfers by governments and in some cases not for profit organizations, especially when the intent is to preserve open space. Many of Connecticut's exemptions for the REC are intended to clarify which transactions are covered under the REC and which ones are taxed under the CIT. Some states, like New Jersey have a similar dual-tax arrangement for the transfer of controlling interests while New York taxes these transfers its general real estate transfer tax. This year, Rhode Island passed an amendment to its transfer tax to extend the tax to more than the transfers by deed so as to include transfers of controlling interests.  In Massachusetts, although the legislature had considered such inclusion, to date their tax appears not clearly tax such transactions.

Connecticut also exempts various transactions that relate to distressed sales or foreclosures, which are not widely available.  Another exemption applies to elderly homeowners who qualify for certain property tax relief.  While New Jersey does not provide an exemption for elderly homeowners who sell their homes, such a transaction is subject to a partial exemption, implemented through the rate structure.  Such an arrangement provides relief for both buyer and seller. When comparing the exemptions with those in neighboring states, taking into consideration the taxation of controlling interests, it appears that Connecticut provides more exemptions, especially for distressed sales.  A comparison of the exemptions is in Appendix 4.

## V. Issues Surrounding Real Estate Conveyance Tax

### V.1 Volatility of REC and Property Tax Replacement

Because of the very nature of the REC, it is sensitive to the swings of the real estate market. This was particularly evident during the housing boom when revenues increased dramatically and the 2008 recession and recovery when revenues dropped percipitiously.  As shown previously in Figure 2, the recovery of the REC revenues at the state level has been slow.  For municipalities, the revenues have not been as volatile, but their recovery has been even slower. As shown in Figure 9, the municipal revenues are not as volatile although the tax base is almost identical.  The major differences are the state’s rate structure and rate increase in 2011.




Because the REC is the only other local tax, the revenues from the tax can be expressed in terms of property tax equivalents.  There are two considerations, the replacement value of the

REC in terms of the mill rate needed to raise an equal amount of property taxes and the differences as to the composition of the taxpayers of the two taxes.

In terms of the mill rate, revenues from the REC represent a fraction of what is generated from the property tax, even for the targeted investment communities that are able to impose the tax at a rate up to twice that of the other communities. The equivalent mill rates are presented in Table 4. Overall, the mill rate equivalents of the REC revenue in both the targeted investment communities and 13 other representative communities[iv] are quite small. In most cases, even in 2006 when the REC revenues were at their peak, REC revenues were equivalent to less than 0.2 mills in the representative municipalities and no more than 0.4 mills in the targeted communities.

Table 4
Mill Rate Equivalent of Real Estate Conveyance Tax Revenues
Representative Municipalities and Targeted Investment Communities

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|---|
| Representative Municipalities | | | | | | | | |
| Bozrah | 0.09 | 0.08 | 0.06 | 0.03 | 0.04 | 0.04 | 0.05 | 0.04 |
| Durham | 0.11 | 0.11 | 0.07 | 0.06 | 0.07 | 0.05 | 0.05 | 0.06 |
| Glastonbury | 0.17 | 0.15 | 0.11 | 0.09 | 0.08 | 0.10 | 0.09 | 0.10 |
| Guilford | 0.14 | 0.12 | 0.10 | 0.06 | 0.07 | 0.06 | 0.06 | 0.08 |
| Killingly | 0.16 | 0.10 | 0.09 | 0.06 | 0.07 | 0.05 | 0.04 | 0.07 |
| Litchfield | 0.13 | 0.10 | 0.07 | 0.04 | 0.07 | 0.05 | 0.05 | 0.07 |
| Manchester | 0.18 | 0.11 | 0.12 | 0.07 | 0.08 | 0.04 | 0.05 | 0.06 |
| New Canaan | 0.16 | 0.14 | 0.12 | 0.07 | 0.09 | 0.13 | 0.09 | 0.14 |
| North Canaan | 0.09 | 0.06 | 0.05 | 0.04 | 0.04 | 0.03 | 0.06 | 0.05 |
| Plainfield | 0.14 | 0.11 | 0.10 | 0.05 | 0.06 | 0.04 | 0.06 | 0.05 |
| Torrington | 0.17 | 0.12 | 0.08 | 0.06 | 0.06 | 0.04 | 0.04 | 0.04 |
| Washington | 0.18 | 0.13 | 0.17 | 0.06 | 0.10 | 0.11 | 0.06 | 0.10 |
| Windsor | 0.14 | 0.17 | 0.09 | 0.05 | 0.05 | 0.04 | 0.04 | 0.07 |
| Average | 0.14 | 0.12 | 0.10 | 0.06 | 0.07 | 0.06 | 0.06 | 0.07 |
| Targeted Investment Communities | | | | | | | | |
| Bloomfield | 0.30 | 0.44 | 0.26 | 0.11 | 0.11 | 0.10 | 0.14 | 0.12 |
| Bridgeport | 0.39 | 0.26 | 0.16 | 0.09 | 0.10 | 0.08 | 0.09 | 0.10 |
| Bristol | 0.27 | 0.22 | 0.19 | 0.11 | 0.15 | 0.08 | 0.09 | 0.10 |
| East Hartford | 0.26 | 0.22 | 0.26 | 0.11 | 0.12 | 0.08 | 0.10 | 0.09 |
| Groton | 0.20 | 0.17 | 0.25 | 0.09 | 0.10 | 0.09 | 0.08 | 0.09 |
| Hamden | 0.25 | 0.33 | 0.18 | 0.23 | 0.14 | 0.10 | 0.11 | 0.16 |
| Hartford | 0.30 | 0.27 | 0.29 | 0.10 | 0.10 | 0.12 | 0.16 | 0.12 |
| Meriden | 0.31 | 0.28 | 0.20 | 0.11 | 0.13 | 0.08 | 0.11 | 0.10 |
| Middletown | 0.30 | 0.21 | 0.14 | 0.20 | 0.12 | 0.10 | 0.11 | 0.16 |
| New Britain | 0.36 | 0.30 | 0.18 | 0.16 | 0.13 | 0.10 | 0.10 | 0.11 |
| New Haven | 0.28 | 0.28 | 0.22 | 0.14 | 0.13 | 0.09 | 0.12 | 0.15 |
| New London | 0.25 | 0.22 | 0.13 | 0.23 | 0.11 | 0.10 | 0.08 | 0.07 |
| Norwalk | 0.41 | 0.29 | 0.19 | 0.09 | 0.13 | 0.14 | 0.11 | 0.15 |
| Norwich | 0.33 | 0.24 | 0.18 | 0.11 | 0.11 | 0.08 | 0.12 | 0.09 |
| Southington | 0.25 | 0.22 | 0.17 | 0.12 | 0.16 | 0.11 | 0.12 | 0.15 |
| Stamford | 0.15 | 0.17 | 0.55 | 0.08 | 0.09 | 0.08 | 0.08 | 0.09 |
| Waterbury | 0.40 | 0.30 | 0.17 | 0.13 | 0.11 | 0.10 | 0.09 | 0.13 |
| Windham | 0.28 | 0.23 | 0.15 | 0.10 | 0.16 | 0.15 | 0.13 | 0.07 |
| Average | 0.29 | 0.26 | 0.22 | 0.13 | 0.12 | 0.10 | 0.11 | 0.11 |

Source: calculated by author from Department of Revenue Service Annual Real Estate Conveyance Tax data

Over time, and with the lack of recovery of the real estate market, the replacement equivalent of REC revenues has declined. The average property tax mill rate needed to replace the REC revenues for the representative municipalities was 0.14 mills in 2006. This would have required a 1.2 percent increase in the property tax. However, by 2013, replacement would require 0.07 mills, raising property taxes by 0.45 percent. For the targeted communities, the average property tax mills needed to replace REC revenue would be 0.29 mills which would be a 1.7 percent increase in 2006. By 2013, only 0.11 mills would be needed, raising property taxes by 0.48 percent.

### V.2 Residential Components of Conveyance and Property Taxes

Residential properties represent a substantial portion of the REC taxable consideration as shown previously in Figure 7. Except for Hartford and Stamford, where the residential portion of the REC was less than 50 percent in 2006, the residential share of the REC tax for the targeted communities averaged about 70 percent and in the representative municipalities, about 80 percent. With the slight recovery in 2010, the average shares rose to 84 percent and 85 percent in the targeted and representative communities respectively. By 2013 the shares had declined to 75 percent and 79 percent, respectively.

With residential component such a substantial factor for the REC, several considerations arise. The first is to what extent is the REC's reliance on residential properties mirrored in the property tax base. If residential properties are a smaller share of the property tax base, then the presence of the REC in effect reduces the property taxes of other segments of the property tax base. Generally for the 31 specific municipalities considered here, the residential share of the REC tax base is greater than its share of the property tax base. In effect, when considering both the property tax and the REC, the share of taxes paid by residential properties is greater than if municipalities imposed only the property tax. The comparison of the residential share of both taxes is shown in Table 5.

Table 5
Residential Percent of Real Estate Conveyance Tax Consideration and Property Tax Value
For Representative Municipalities and Targeted Investment Communities

| | 2008 | | 2009 | | 2010 | | 2011 | | 2012 | | 2013 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | REC | Prop | REC | Prop | REC | Prop | REC | Prop | REC | Prop | REC | Prop |
| Representative Municipalities | | | | | | | | | | | | |
| Bozrah | 85% | 58% | 94% | 65% | 69% | 65% | 85% | 65% | 83% | 64% | 77% | 64% |
| Durham | 88% | 71% | 92% | 71% | 92% | 71% | 92% | 80% | 89% | 67% | 91% | 67% |
| Glastonbury | 85% | 74% | 81% | 76% | 90% | 76% | 69% | 76% | 76% | 77% | 74% | 76% |
| Guilford | 85% | 83% | 96% | 85% | 94% | 86% | 93% | 86% | 95% | 85% | 92% | 85% |
| Killingly | 83% | 39% | 78% | 47% | 78% | 46% | 88% | 46% | 81% | 46% | 74% | 45% |
| Litchfield | 89% | 79% | 82% | 79% | 86% | 78% | 82% | 78% | 79% | 78% | 88% | 78% |
| Manchester | 68% | 56% | 74% | 56% | 74% | 56% | 80% | 56% | 64% | 56% | 69% | 53% |
| New Canaan | 96% | 89% | 88% | 89% | 96% | 90% | 93% | 90% | 97% | 90% | 92% | 90% |
| North Canaan | 88% | 43% | 80% | 48% | 72% | 48% | 64% | 48% | 90% | 48% | 71% | 48% |
| Plainfield | 55% | 56% | 81% | 60% | 69% | 60% | 80% | 60% | 45% | 60% | 84% | 60% |
| Torrington | 83% | 65% | 80% | 65% | 91% | 64% | 78% | 65% | 76% | 65% | 81% | 65% |
| Washington | 58% | 76% | 85% | 76% | 93% | 75% | 97% | 75% | 82% | 75% | 87% | 75% |
| Windsor | 64% | 53% | 84% | 50% | 94% | 51% | 81% | 51% | 82% | 51% | 44% | 51% |
| Average | 79% | 65% | 84% | 67% | 85% | 67% | 83% | 67% | 80% | 66% | 79% | 66% |

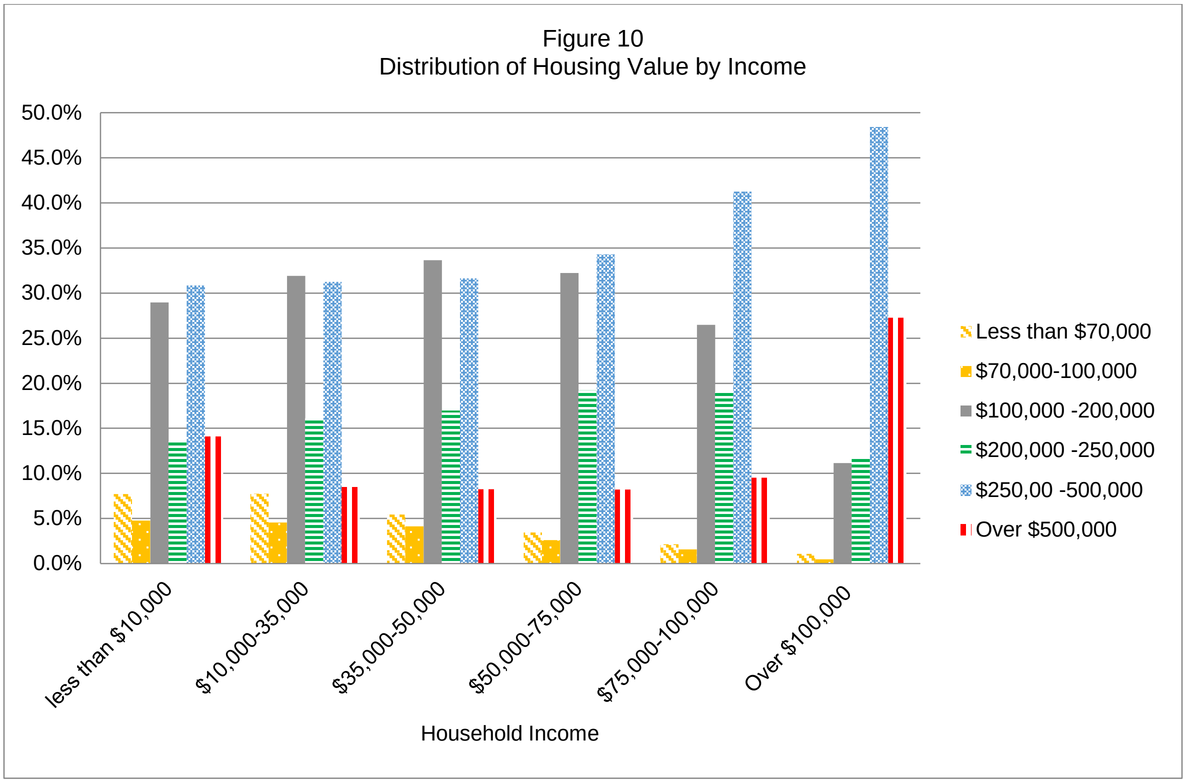
| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Targeted Investment Communities | | | | | | | | | | | | |
| Bloomfield | 51% | 54% | 88% | 54% | 81% | 54% | 70% | 53% | 51% | 54% | 81% | 53% |
| Bridgeport* | 83% | 59% | ` | 58% | 87% | 60% | 81% | 56% | 67% | 57% | 72% | 57% |
| Bristol | 66% | 59% | 86% | 64% | 81% | 64% | 85% | 64% | 85% | 64% | 92% | 63% |
| East Hartford* | 55% | 56% | 70% | 56% | 92% | 56% | 76% | 56% | 69% | 56% | 74% | 50% |
| Groton | 66% | 54% | 84% | 54% | 91% | 54% | 75% | 55% | 86% | 55% | 86% | 53% |
| Hamden | 83% | 73% | 52% | 73% | 90% | 73% | 85% | 73% | 86% | 70% | 66% | 69% |
| Hartford* | 41% | 19% | 55% | 25% | 63% | 23% | 39% | 22% | 28% | 21% | 44% | 21% |
| Meriden* | 77% | 62% | 81% | 62% | 93% | 62% | 76% | 62% | 66% | 62% | 82% | 58% |
| Middletown | 84% | 52% | 49% | 57% | 89% | 56% | 67% | 55% | 72% | 55% | 58% | 55% |
| New Britain* | 81% | 57% | 65% | 62% | 87% | 62% | 71% | 62% | 69% | 62% | 74% | 61% |
| New Haven* | 87% | 53% | 83% | 53% | 85% | 54% | 80% | 52% | 63% | 52% | 55% | 45% |
| New London* | 82% | 51% | 43% | 51% | 84% | 48% | 60% | 48% | 88% | 48% | 91% | 48% |
| Norwalk | 69% | 68% | 89% | 68% | 88% | 68% | 85% | 68% | 82% | 67% | 81% | 67% |
| Norwich* | 71% | 59% | 62% | 59% | 78% | 63% | 74% | 63% | 45% | 63% | 66% | 62% |
| Southington | 81% | 72% | 87% | 71% | 82% | 71% | 87% | 71% | 83% | 71% | 88% | 70% |
| Stamford | 42% | 65% | 70% | 59% | 82% | 59% | 80% | 59% | 75% | 59% | 87% | 59% |
| Waterbury* | 71% | 53% | 69% | 56% | 82% | 56% | 55% | 56% | 73% | 56% | 59% | 56% |
| Windham* | 89% | 56% | 82% | 55% | 81% | 56% | 53% | 57% | 41% | 57% | 87% | 56% |
| Average | 71% | 57% | 71% | 57% | 84% | 58% | 72% | 57% | 68% | 57% | 75% | 56% |

Since homeowners dominate the REC and the tax is imposed when the property is sold, to what extend does the tax reduce housing values or dampen demand. Several studies that have looked at these effects found that the introduction of a transfer tax or a large rate increase does dampen the market, at least in the short run (Besley et al. 2014; Best et al. 2013, Benjamin et al. 1993, Dachis et al 2008, 2011 Kopczuk and Munroe 2014, O'Sullivan et al. 1995, and Slemrod et al. 2012). A preliminary investigation, comparing the targeted investment communities before and after they implemented the optional tax with similar communities found that there was a small effect, but it was not statistically significant. One factor that may explain the modest results is that compared with the other, more robust studies, the rate differential in Connecticut may not represent a substantial change in prices. Although the rates in the targeted communities are twice those in the other communities, the rates are relatively low both in the context of the combined state and local rates and when compared to the rates in the other studies.

**V.3 Fairness in the Distribution of the Tax**

The presence of the optional additional rate in the 18 targeted communities presents some horizontal inequities. A sale of property in one of the 18 communities would have a higher tax than for the same priced property in another town. However, to the extent that there is the price differential of an identical house, the lower price might be sufficient to offset the tax differential. Such differentials may be sufficient to address, and even offset, any horizontal inequities. However, this was not examined specifically here.

The issue of progressivity of the REC was presented in the Department of Revenue Services report "Connecticut Tax Incidence" (2014). Their findings were that this tax is "slightly regressive", with a Suits Index of -0.14. Another way of looking at this issue is to look at the tax on the median housing value within household income groups. Using Bureau of the Census data, housing values for six income groups were examined. The percent of housing value is displayed in Figure 10. It is these data that are used to construct housing values for various households and then applying the state and general local tax rate to estimate the tax and the initial incidence of the REC.




Source: U.S. Bureau of the Census, American Community Survey B25131 2009-2013 Household Income

For example for the income group with household income between $35,000 and $50,000 the average housing value about $225,000. The tax on the sale of that home would be about $2,250 or about 5.3 percent of income. The pattern of this limited example is similar to the state's incidence study, with a heavier tax burden in the very low income households and middle income households.

Table 6
Estimated Real Estate Conveyance Tax by Household Income

| Household Income | Midpoint Median Housing Value | CRE Tax-at State and Basic Rate | Tax as Percent of Income |
|---|---|---|---|
| Less than $10,000 | $150,000 | $1,500 | 30.0% |
| $10,000-$35,000 | $225,000 | $2,250 | 10.0% |
| $35,000-$50,000 | $225,000 | $2,250 | 5.3% |
| $50,000 - $75,000 | $375,000 | $3,750 | 6.0% |
| $75,000 - $100,000 | $375,000 | $3,750 | 4.3% |
| Over $100,000 (assumed to be $200,000 | $800,000 | $8,000 | 4.0% |

Source: U.S Bureau of the Census American Community Survey B25121 2009-2013 Household Income

None of the effect of any of the exemptions is capture here. This is particularly true of the exemptions for distressed sales which may offset some of the burden. To the extent that short sales and foreclosures are more prevalent in the lower household income groups, the exemptions may improve the progressiveness of the tax.

Many of the long term factors that may impact the overall equity of the REC have been discussed in other studies but are not covered here (Sexton 2008). Since the tax is imposed only when the property is sold, to the extent that higher income households move more frequently they are likely to pay the tax more often, adding then to the progressivity of the tax. On the other hand, to the extent that for lower income households the home is their largest if not only asset may increase the regressively of the tax.

## VI. Conclusions

The Real Estate Conveyance tax and the complementary Controlling Interest Transfer tax in Connecticut provide only a nominal amount of revenue for the state. Because of the severity of the 2008 recession, the revenues have been slow to recover. This is because tax revenues are a function of both the number of real estate transactions and the price of property, especially for residential homes. Because the REC is an ad valorem tax paid at the time the deed is registered with the town clerk, the tax provides critical information for the administration of the property tax which may not be available with just the registration of the deed.

Compared to transfer taxes in neighboring states, Connecticut state and local rates are more modest. This is particularly true for the higher value properties compared particularly with New York and New Jersey. However, compared with the rates imposed in other states, the combined rates are generally much higher in Connecticut.

The local tax is the only local tax other than the property tax. However, there is no flexibility except for targeted investment communities imposing an optional rate. However, even with the higher rate, the revenues from the REC reduce the mill rate in the range of no more than 1 percent.

Although the tax has limited revenue potential and can be extremely volatile because of its total reliance on the real estate market, information gathered from the payment of the tax provides critical information for effective property tax management.

Appendix 1
Revenue Trends of the Real Estate Conveyance Tax and Controlling Interest Transfer Tax
($ in thousands)

| Fiscal Year | Real Estate Conveyance | | Controlling Interest Transfer | |
|---|---|---|---|---|
| | Revenue | Number of Exempt Conveyances | Revenue | Number of Transfers |
| 2000 | $113,642 | na | $924 | na |
| 2001 | 111,113 | na | 1,165 | na |
| 2002 | 119,351 | na | 1,367 | 20 |
| 2003 | 147,410 | na | 1,907 | 21 |
| 2004 | 174,775 | na | 1,966 | 22 |
| 2005 | 199,193 | na | 8,438 | 36 |
| 2006 | 201,123 | 8,808 | 6,334 | 61 |
| 2007 | 195,216 | 9,043 | 15,834 | 65 |
| 2008 | 153,668 | 10,128 | 5,044 | 45 |
| 2009 | 82,148 | 8,227 | 8,654 | 34 |
| 2010 | 97,576 | 7,532 | 2,691 | 40 |
| 2011 | 91,112 | 8,990 | 3,709 | 43 |
| 2012 | 121,762 | 10,501 | 10,978 | 57 |
| 2013 | 147,184 | 10,289 | 6,322 | 64 |
| 2014 | 172,196 | 11,095 | 8,311 | 58 |

Source: Department of Revenue Services, Annual Report

## Appendix 2
## Summary of the Connecticut Real Estate Conveyance Tax and Controlling Interest Transfer Tax

| | Real Estate Conveyance Tax<br>Chapter 223 | Controlling Interest Transfer Tax<br>Chapter 228b |
|---|---|---|
| Taxable event | Upon the conveyance or transfer of real property | Sale or transfer of 50 percent or more of controlling interest in an entity where entity owns interest in Connecticut real estate |
| Threshold | Consideration exceeds $2,000 (applies to state and both local taxes) | Real Property present value exceeds $2,000 |
| Rate structure | State rate:<br>• 0.75% Unimproved land and delinquent mortgage<br>• 0.75% Residential properties (apartment houses) other than residential<br>• 0.75% on the value of single family home up to and including $800,000 and<br>• 1.25% on the consideration in excess of $800,000;<br>• 1.25% Improved, non-residential<br>Local Rate:<br>• 0.25%<br>Selected Localities:<br>• Up to 0.25% | 1.11% of actual value of the interest in real property |
| Exemption | • Deeds which the state is prohibited from taxing under US constitution<br>• Deeds made pursuant to mergers<br>• Deeds made by subsidiary corporation to its parent corporation for no consideration except cancellation of stock and transfers where there is no change in beneficial ownership<br>• Any deeds of property located in an entertainment district (approved districts: Bridgeport, New Britain, Stamford, Windham)<br>• Deeds releasing property which was held as security for debt<br>• Conveyance pursuant to decree of the superior court as a result of a foreclosure by sale or of sale in lieu of foreclosure or market sale<br>• Deeds to secure a debt<br>• All transfers between spouses;<br>• Land development rights to agricultural land under farmland preservation program<br>• Employee relocation company or employer re-sales within six months of conveyance | • Deeds to or by U.S government, Connecticut state or local government<br>• No change in beneficial ownership<br>• Entity possessing interest in property in enterprise zone<br>• Transfer resulting from eminent domain<br>• Releasing property which was held as security for debt<br>• Mortgage deeds<br>• Tax deeds<br>• Deeds to any entity of land held in perpetuity for education, etc or other equivalent passive use |
| Time of payment | Upon registering deed | Within 30 days of transfer |
| Collection agent | Municipal town clerk | Department of Revenue Services |
| Number of taxable transactions or transfers | 42,291 taxable conveyances | 58 transfers |
| Revenue Collections | $157,237,245 (2013-14) | $8,310,899 (2013-14) |

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Appendix 3:
State and Local Real Estate Transfer Tax Rates as of December 2014
Note: States with constitutional bans are in bold.
Except where noted, state rate and mandated and optional local rates are combined for maximum applicable rates.
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| State | State Tax Rate | Mandated Local Tax Rate | Optional Local Tax Rate |
|---|---|---|---|
| Alabama | 0.10% | – | – |
| Alaska | – | – | – |
| **Arizona** | – | – | – |
| Arkansas | 0.33% | – | – |
| California | – | – | Counties: 0.11%<br>Charter cities: no limit<br>Other cities: 0.055%[1] |
| **Colorado** | 0.01%– | -– | Selected cities and towns: 1%-4%[2] |
| Connecticut | 0.75% / 1.25%[3] | Municipalities: 0.25% | Targeted investment communities and municipalities with enterprise zone manufacturing plants: ≤ 0.25% |
| Delaware | 2%[4] | – | Counties or municipalities: ≤ 1.50% |
| D.C. | 1.10% / 1.45%[5] | – | – |
| Florida | 0.70%[6] | – | Selected counties: ≤ 0.45%[7] |
| Georgia | 0.10% | – | – |
| Hawaii | 0.10%-1% / 0.15%-1.25%[8] | – | – |
| Idaho | – | – | – |
| Illinois | 0.10% | – | Home rule counties or municipalities: no limit<br>Other counties: 0.05%<br>Chicago: 1.05%[9] |
| Indiana | – | – | – |
| Iowa | 0.16% | – | – |
| Kansas | – | – | – |
| Kentucky | – | Counties: 0.10% | – |
| **Louisiana** | – | – | – |
| Maine | 0.44% | – | – |
| Maryland | 0.50% | – | Code home rule counties: ≤ 0.50%<br>Selected charter and commission counties: 0.50%-1.50%[10] |
| Massachusetts | 0.456%[11,12] | – | Nantucket and Dukes Counties: 2%<br>Barnstable County: 0.27% |
| Michigan | 0.75% | Counties: 0.11% | Counties, pop. 2 million and over: ≤ 0.04% |

| State | State Tax Rate | Mandated Local Tax Rate | Optional Local Tax Rate |
|---|---|---|---|
| Minnesota | 0.33% | – | |
| Mississippi | – | – | – |

| | | | |
|---|---|---|---|
| **Missouri** | – | – | – |
| **Montana** | – | – | – |
| Nebraska | 0.225% | – | – |
| Nevada | 0.26% | Counties<br>pop. under 700,000: 0.13%<br>pop. 700,000 and over: 0.25% | Selected counties: ≤ 0.02% (LGTA)<br>Counties, pop. under 700,000: ≤ 0.01% (Plant Industry Program) |
| New Hampshire | 1.50%[13] | – | – |
| New Jersey | State rate: 0.25%<br>Additional fee: 0.15%, deeds > $150,000<br>General purpose fee: 0.18%-0.43%, deeds > $350,000<br>Supplemental fee: 0.05%-0.28%<br>Mansion tax: 1%, all deeds > $1 million | Counties: 0.10% | – |
| New Mexico | – | – | – |
| New York | State rate: 0.40%<br>Mansion tax: 1%, residential property ≥ $1 million | – | Selected counties, cities and towns: 0.10%-3%[14] |
| North Carolina | 0.20% | – | Selected counties: 1% |
| **North Dakota** | – | – | – |
| Ohio | – | Counties: 0.10% | Counties: ≤ 0.30% |
| Oklahoma | 0.15% | – | – |
| **Oregon** | – | – | Washington County: 0.10%[2] |
| Pennsylvania | 1% | – | Municipalities and school districts: ≤ 1% (combined)<br>Home rule jurisdictions: no limit |
| Rhode Island | 0.46% | – | Town of New Shoreham: 3%<br>Town of Little Compton: 2% / 4%[15] |
| South Carolina | 0.26% | Counties: 0.11% | Town of Hilton Head Island: 0.25%[2] |
| South Dakota | – | Counties: 0.10% | – |
| Tennessee | 0.37% | – | – |
| Texas | – | – | – |
| Utah | – | – | – |
| Vermont | 0.50% / 1.25%[16] | – | – |

| State | State Tax Rate | Mandated Local Tax Rate | Optional Local Tax Rate |
|---|---|---|---|
| Virginia | Transfer: 0.25%<br>Grantor: 0.10%<br>Congestion Relief fee: 0.15%[17] | – | Cities or counties: 0.0833% |
| Washington | 1.28% | – | Counties and/or cities: 0.25%-1.50% |
| West Virginia | 0.22% | Counties: 0.11% | Counties: ≤ 0.11% |
| Wisconsin | 0.30% | – | – |
| Wyoming | – | – | – |
| Source: Adapted from Atkins, et al. 2015 | | | |

[1] When imposed, city rate is a credit against county rate for a maximum combined rate of 0.11%.
[2] Tax established under home rule authority, rather than by state authorization. Taxes existing prior to constitutional ban were grandfathered.
[3] Dual rate structure: 0.75% rate is imposed on unimproved land and the first $800,000 of residential property; 1.25% rate is imposed on non-residential property and residential property in excess of $800,000.
[4] State rate is reduced to 1.50% if locally adopted rate exceeds 1% for a maximum state and local combined rate of 3%.
[5] The 1.10% rate applies only to residential property valued under $400,000.
[6] State rate is 0.60% in Miami-Dade County.
[7] Miami-Dade County adopted the local option at the full rate with an exemption for single-family residential property. The combined county and state rate is 1.05% for non-residential property.
[8] Rates are graduated according to property value with the higher rate structure applied to non-owner occupied residential properties.
[9] Chicago rate includes Chicago Transit Authority rate.
[10] Not all counties have adopted the tax. Charter and commission counties require specific state authorization to impose the tax.
[11] State rate includes 14% surcharge.
[12] State rate is reduced to 0.342% in Barnstable County for a combined rate of 0.612%.
[13] A rate of 0.75% is imposed on both buyer and seller.
[14] For each jurisdiction, authority and maximum rate are established by state authorization.
[15] Dual rate structure: 2% rate is imposed on properties between $150,000 and $225,000; 4% rate is imposed on properties in excess of $225,000.
[16] Dual rate structure: 0.50% rate is imposed on the first $100,000 of principal residence; 1.25% rate is imposed on principal residence in excess of $100,000 and all other property.
[17] Congestion Relief rate applies only to Northern Virginia region.

| Appendix 4<br>Comparison of Connecticut, New York, Massachusetts, and New Jersey Exemptions<br>For Real Estate Conveyance Tax and Real Estate Transfer Taxes | | | | |
|---|---|---|---|---|
| Y indicates that exemption is provided | Connecticut | New York | Massachusetts | New Jersey |
| | CSG §12-498 | §1405 Tax Law | Gen. Law Ch 64D | NJSA 46:15-10 |
| **General**<br>Dimenius value | less than $2,000 | less than or equal $500 | does not exceed $500 | less than $100 |
| Prohibited under Constitution or federal law (i.e. Freddie, Fannie) | Y | Y | Y | Y |
| Secure a debt or release of property | Y | Y | Y | Y |
| State or municipality is party | Y | Y | Y | Y |
| For the Adriaen's Landing or stadium facility | Y | | | |
| To a water company-Class I or II (watershed areas and reservoirs) | state only | | | |
| Property located in enterprise zone or entertainment district or similar economic development designation | state only | Y | | |
| Bona fide gift | Y | Y | Y | |
| Conveying a cemetery lot or plot | Y | | | Y |
| Made to any nonprofit organization for holding undeveloped open space land | y | | | |
| **HARDSHIP** | | | | |
| Tax Deeds or sales | Y | Y | | Y |
| Pursuant to decree of Superior Court or judgment of foreclosure by market sale | Y | | | |
| In lieu of foreclosure transferring principal residence | Y* | | | |
| Any instrument transferring principal resident where gross prices insufficient to cover mortgage and taxes (short sale) | effective 10/1/2010 | | | |
| Principal residence of low income disabled or elderly who receive property tax assistance | state only | | | Y* |
| Conveying property to trustee for the benefit of debtors creditors | Y | | | Y |
| Sale without use or occupancy | | Y | | |
| **FAMILY TRANSACTIONS** | | | | |
| Between Spouses | Y | | | Y |
| Pursuant to court order dissolving marriage | Y | | | Y |
| Inherited real estate | Y | | | Y |
| Gifts between spouses or from parent to children | Y | | | Y |
| personal residence less than $200,000 consisting of contract to purchase | | Y | | |
| **CORPORATION TRANSACTIONS** | | | | |
| Deeds of partitions | Y | Y | Y | Y |
| Court order partitions of joint and common estates | Y | | | |
| Deeds mergers of corporations | Y | | Y | |
| Deed made by subsidiary corporation to parent for no consideration | Y | | | |
| Between affiliated corporations of 501 (c) | Y | | | |
| Mere change of identity no change in beneficial ownership | Y | Y | | |
| Release of property which is security for a deed | Y | | | |
| Within 6 months acquired under relocation plan | Y | | | |
| Pursuant to federal bankruptcy court | | Y | | |
| Controlling Interests | More than 50% | 50% or more | | |
| Dissolution of corporation and property conveyed to shareholders | | | Y | |
| Long-term leases | Y (except very long leases | | Y (except very long leases) | |
| *Notes: | | | | |
| Massachusetts a $2.28 fee imposed on transferees over $100 to $500 | | | | |
| Massachusetts may include additional exemptions | | | | |
| New Jersey provides partial exemption of total consideration for senior citizen, blind/disabled person | | | | |

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## Endnotes

[i] The payment of federal Documentary Tax was to be worked out by the grantor (seller) or grantee (buyer). If either party was exempt from paying the tax, the other party would be responsible for it. Some states, including New York, require that if the seller is exempt from the tax, the buyer is responsible for the tax.

[ii] Although local governments throughout the US pursued taxing the transactions of Freddie Mac and Fannie Mae, multiple federal district courts up held the agencies' position that they were not subject to transfer taxes.

[iii] The Warren Group collects and compiles data on real estate sales and ownership throughout New England, including Connecticut towns. Their data are available on the web at http://www.thewarrengroup.com.

[iv] These communities include those that were identified for the property tax study. They include Bozrah, Durham, Glastonbury, Guilford, Killingly, Litchfield, Manchester, New Canaan, North Canaan, Plainfield, Torrington, Washington, and Windsor.