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GIVING AWAY THE STATION:
Tax Break for Union Station Would Cost City Tens of Millions in Revenue

The developers that manage Union Station are making a renewed effort to secure a permanent property tax break for all commercial businesses in the complex, including retail stores, eateries and bus lines that may operate out of its garage. The proposed exemption would cost the city at least $34 million over the next two decades. Legislation creating this tax break was tabled by the DC Council when the bill came up for a vote in September, due to concerns that the bustling shopping center did not need special tax treatment.

Now the developers are arguing that the tax break should be re-considered, because it would provide an injection of funds to District coffers. According to the bill, the developers of Union Station would provide a lump-sum payment of $11.5 million. They also argue that the District will gain $120 million in sales and other tax revenue over the next two decades due to a planned expansion.

While the numbers seem impressive, they are misleading for several reasons:

- **The lump-sum tax payment is what Union Station owes under District law.** The District started to impose a "possessory interest tax" on Union Station's commercial activities in the mid-2000s, as part of an effort to treat businesses operating in federal buildings the same as those operating in commercial spaces. The retail managers at Union Station have not paid the tax bill, arguing that they should not be subject to the law. The proposed tax exemption would include a lump-sum payment of their back taxes, plus the legally obligated payments from 2012 to 2015, but then exempt the commercial businesses from the possessory interest tax starting in 2016.

- **The projected growth in sales taxes is not tied to the tax abatement.** The estimates of additional sales tax revenue are based on already-planned expansions at Union Station that appear to reflect untapped market potential there. The developers do not make the claim that the tax abatement is critical to their redevelopment. This means that the new sales tax revenue is likely to be generated with or without the tax break.

Background On The Union Station Tax Exemption

Union Station is a federal property, and is therefore it is exempt from DC's property tax. But a large portion of the building is used for commercial purposes, including a busy food court and retail mall whose businesses include Ann Taylor, Starbucks, and Victoria's Secret. Although the District does not levy a property tax on Union Station, DC law authorizes the city to impose what is known as a "possessory interest tax." The possessory interest tax is effectively a property tax levied on the commercial activities that occur in tax-exempt buildings.

The possessory interest tax matches DC's commercial property tax, using the same tax rate and structure. It levels the playing field so that for-profit enterprises operating in space leased from the federal government will pay property taxes like any other commercial business. The proposed bill would exempt Union Station businesses from the possessory interest tax starting in 2016, and the exemption also would apply to any future development in the Union Station garage.

The bill is unsound tax policy for several reasons discussed below.

The Union Station Tax Exemption Would Undermine Tax Fairness.

Roughly 40 percent of land in the District is exempt from the DC property tax, much of it federal property. The possessory interest tax is a common-sense effort to treat commercial properties located in federal buildings the same way the tax code treats businesses located on privately owned land. Eliminating the possessory interest tax at Union Station would move DC in the wrong direction in this important effort.

The bill would give a permanent tax break starting in Fiscal Year 2016 to businesses operating within Union Station, exempting Starbucks, Ann Taylor, and Victoria's Secret, and many more businesses from paying commercial property tax to the city. (An intercity bus terminal is planned for the garage, which would include operators such as Greyhound.) The tax exemption would give an unfair competitive advantage to businesses on federal land. Nearly all commercial property owners pass the cost of property taxes on to their tenants. There is no reason why the non-profit entity that manages Union Station, a thriving commercial area, cannot pass on the possessory interest tax to the retail tenants of Union Station.

The Chief Financial Officer noted that permanent tax breaks for commercial properties in DC are very rare, and that reversing such a tax exemption in the future would be very difficult to do.

The Union Station Tax Exemption Is Costly and the Supposed Benefits Are Deceptive.

By starting the tax break in FY 2016, the Union Station tax exemption appears to have no fiscal impact on the city. This is a bit of financial trickery, because fiscal impact is only measured in a four-year window.

In reality, the bill would cost DC at least $1.4 million per year starting in FY 2016, according to the CFO. By FY 2035, the accumulated loss to the city is estimated to be $34 million. The foregone tax revenue could be even higher than $1.4 million per year if the garage at Union Station is developed for commercial use.

The developers argue that the CFO's fiscal analysis of the cost of their property tax exemption does not take into account an increase in sales and use taxes , which they estimate will generate an increase in revenue of $158 million over 20 years. While the expected increases in economic activity and sales tax collections stemming from the redevelopment are advantageous, they have no direct connection to the tax exemption. The tax exemption does not appear to be needed to make the redevelopment viable. Nothing in the documents provided by the developers suggests that it is.

The Bill's Short-Term Financial Gain for the City Has Long-Term Costs

Since the mid-2000s, the retail managers at Union Station have refused to pay the possessory interest tax, arguing that they should not be subject to taxation. Now Union Station's managers propose to pay the back taxes owed, giving the city a lump sum of money, but want the stop paying permanently in 2016. Very simply, surrendering future tax revenue in order to plug a short-term budget hole is not sound fiscal policy. Moreover, the managers of Union Station's commercial space should not be given credit for paying back taxes — taxes that they have owed but not yet paid.

The Bill's Proponents Prioritize Commercial Development Over Other Public Spending

Commercial benefits in the form of tax revenue are easily measured. But the benefits of non-commercial public investments are harder to quantify. If the Council adopted the standard that the retail managers of Union Station are advancing with their argument, this would in effect push any tax subsidy for commercial development to the front of the line when comparing the costs and benefits of different city expenditures. And it also would favor tax subsidies for the most profitable projects, rather than economic development projects in struggling neighborhoods where help may be needed most but projected tax increases would be more modest.

Conclusion

In the end, there is no clear rationale for providing a generous tax exemption to the busy retail center at Union Station. There are many reasons to oppose the tax break, including its high long-term cost and impact on DC finances, its unfairness by providing special treatment to select businesses, and the hidden nature of the costs in lost tax revenue. The DC Council should decline to reconsider the Union Station tax break.