

## **BUSINESS TAX CONSOLIDATION – 2015 ANNUAL STATUS REPORT**

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### **EXECUTIVE SUMMARY**

The City of Calgary is implementing a plan to incrementally consolidate its business tax revenues with the non-residential property tax. Council direction for this plan requires that Administration provide an annual update to Council, through the Priorities and Finance Committee, on the progress of the business tax consolidation (BTC) until the consolidation is complete in 2019. As part of this 2015 update, recommended tax cancellations under the “limited benefit non-profit organization” property tax mitigation program are provided. The update concludes that BTC is proceeding as planned through (a) a 20 per cent cumulative transfer of business tax revenues to the non-residential property tax, representing a cumulative 4.5 per cent increase to the 2015 non-residential property tax rate, and (2) a cancellation and refund of property taxes, totalling \$167,799.59, to limited benefit non-profit organizations approved for tax mitigation, with 2015 being the mitigation program’s final year.

### **ADMINISTRATION RECOMMENDATION(S)**

That the Priorities and Finance Committee recommend that Council:

1. use its taxation authority under section 347 of the *Municipal Government Act* to approve the refund of the property tax amounts listed in Attachment; and
2. direct Administration to bring the *Business Tax Consolidation – 2016 Annual Status Report* to the Priorities and Finance Committee in May 2016.

### **RECOMMENDATION OF THE PRIORITIES AND FINANCE COMMITTEE, DATED 2015 MAY 19:**

That the Administration Recommendations contained in Report PFC2015-0432 be approved.

### **PREVIOUS COUNCIL DIRECTION / POLICY**

On 2014 May 26 through PFC2014-0289 *2014 Business Tax Consolidation Annual Status Report – Limited Benefit Non-Profit Organizations*, Council approved 2014 tax refunds, to eligible non-profit organizations under the Limited Benefit Non-Profit Tax Mitigation Program, of the property tax increase arising through the business tax consolidation process.

On 2014 April 26 through PFC2014-0217 *Business Tax Consolidation – 2014 Annual Status Report*, Council received for information the 2014 annual update and directed Administration to (1) bring a report in May of 2014 recommending Council approval of tax refunds under the Limited Benefit Tax Mitigation Program; and, (2) for the following year, bring the annual report on Business Tax Consolidation in May of 2015.

On 2012 July 16, through PFC2012-0139 *Business Tax Consolidation – Mitigation Options for Limited Benefit Non Profit Organizations*, Council approved the implementation of a tax mitigation program to refund the property tax increase to limited benefit non-profit organizations affected by business tax consolidation over the 2013, 2014 and 2015 taxation years.

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On 2012 April 09 through PFC2012-35 *Business Tax Consolidation Framework and Associated Plans*, Council approved the consolidation of business tax revenues into the non-residential property tax by adopting recommendation 4(b) of the report. All of the recommendations adopted by Council in consideration of PFC2012-35 are presented below.

“That the Priorities and Finance Committee recommend that Council:

Consolidate business tax revenues into the non-residential property tax, based on the following schedule for the incremental transfer of budgeted 2013 business tax revenues, adjusted for physical growth and contingency amounts in future years, to the non-residential property tax:

- (a) zero per cent in 2013,
- (b) 10 per cent in each of the years 2014 - 2015, and
- (c) 20 per cent in each of the years 2016 - 2019,

with the business tax, for business tax revenue purposes, eliminated in 2019.

Approve the following supplementary directions and policies, applicable both during and after the consolidation process unless otherwise stated:

- (a) the effect of Council's zero per cent business tax rate increase policy would continue to apply to the business tax amount transferred to the non-residential property tax;
- (b) a machinery and equipment property tax exemption bylaw will continue to be passed annually, applying to all Calgary machinery and equipment property, except for property subject to annexation agreements and Orders in Council;
- (c) for the purposes of continuity in, and certainty to, Business Revitalization Zone financing:
  - i. in consultation with Business Revitalization Zone stakeholders, advocate to the provincial government for a suitable financing alternative than the current business assessment and business revitalization zone levy process; and,
  - ii. the business assessment and business revitalization zone levy process continue until such time as a suitable business revitalization zone financing alternative is established.
- (d) Council's decision regarding business tax consolidation be communicated, by way of letters from the Mayor to the provincial and federal governments and railway company that are subject to the payment of grants in lieu of the non-residential property tax in Calgary, with the letter including Council's expectation that grants in lieu of property tax be paid at 100 per cent of the property tax rate; and, for the provincial government, that the letter also express Council's intention to advocate for a suitable financing alternative to the business assessment and business revitalization zone levy process.
- (e) for the properties, or portions thereof, occupied by non-profit organizations, and listed in Attachment 5, the effect of a zero per cent transfer of business tax to the non-residential property tax will be continued and applied for the 2014 and 2015 years; this to be implemented by way of a property tax refund, approved by Council through the annual status report referenced in recommendation #4.

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Direct Administration to undertake the:

- (a) implementation plan in Attachment 2; and,
- (b) communications plan in Attachment 3.

Direct Administration to provide the following consolidation reports to Council, through the Priorities and Finance Committee:

- (a) an implementation readiness report in 2012 September;
- (b) annual status reports, including any business tax consolidation related budget implications, by no later than April in each of the 2013-2019 years; and,
- (c) a final report by no later than 2019 July.”

Direct Administration to review mitigation options for the non-profit organizations listed in Attachment 5, and to return with a report to the Priorities and Finance Committee no later than 2012 June.”

### **BACKGROUND**

Following Administration’s consultation and communication with stakeholder groups, Council approved a plan, through PFC2012-35, to incrementally transfer business tax revenues to the non-residential property tax over the period of 2013 to 2019. Administration was directed to provide annual status reports to Council on the progress of BTC, including identifying potential issues or changes to ensure BTC proceeds as planned.

The annual BTC tax transfer can result in increased property tax for non-profit organizations that are currently exempt from business tax but not exempt from property tax. Collectively these non-profit organizations are called “limited benefit non-profit organizations” (LBNP). These organizations can generally be described as labour unions, industry and trade associations, bingo facilities, and organizations that would qualify for a property tax exemption but for restrictions in the *Community Organization Property Tax Exemption Regulation*. The LBNP organizations are those listed in Attachment 5 of PFC2012-35. To help LBNP organizations plan and budget for the consolidated tax, a mitigation program was approved under PFC2012-0139 to provide eligible LBNPs with a tax refund equal to the property tax increase, to their business premises, associated with the BTC tax transfer. The tax mitigation program is for three years (2015 is the final year of the program), and Council approval is required for 2014 and 2015 refunds. To be eligible for the program there must be no change to the LBNP’s (a) non-profit status and (b) business location from the start of mitigation in 2013.

### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

Through the implementation process described below, Administration has transferred 10 per cent of business tax revenues to the non-residential property tax, resulting in a 2.2 per cent increase to the 2015 non-residential property tax rate. Since 2014, 20 per cent (cumulative) of business tax revenues has been transferred to the non-residential property tax, resulting in a cumulative 4.5 per cent increase to the non-residential tax rate.

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In accordance with Report PFC2012-35, this annual status update includes:

- a) necessary actions undertaken to ensure BTC continues as planned;
- b) a recommendation that any qualifying property, or portion thereof, occupied by a LBNP organization receive a tax refund equal to the property tax increase, to its business premises, associated with the BTC tax transfer for the 2014 and/or 2015 tax years; and
- c) an update on advocacy efforts to the Government of Alberta for an alternative financing solution for business revitalization zones (BRZs).

To deliver the status report requirements and to ensure Council has a complete understanding of the BTC process, the analysis is grouped by the five Council directions under PFC2012-35.

Council Direction 1: Recommendation to consolidate

Per the annual transfers approved in PFC2012-35 (Table below), the 2015 tax year has a 10 per cent incremental transfer of business tax to non-residential property tax. Before consolidation, the 2015 business tax revenue, including allowance for tribunal losses and estimated net growth, amounted to \$196.5 million. For 2015, after the incremental 10 per cent transfer, business tax revenue amounted to \$174.7 million. This transfer brings a 2.2 per cent increase in the non-residential property tax rate; and 4.5 per cent cumulatively since 2014.

| <b>BUSINESS TAX TRANSFER TO NON-RESIDENTIAL PROPERTY TAX</b> |                                 |                                |
|--|---------------------------------|--------------------------------|
| <b>Year</b>  | <b>Incremental Transfer (%)</b> | <b>Cumulative Transfer (%)</b> |
| <b>2013</b>  | 0                               | 0                              |
| <b>2014</b>  | 10                              | 10                             |
| <b>2015</b>  | 10                              | 20                             |
| <b>2016</b>  | 20                              | 40                             |
| <b>2017</b>  | 20                              | 60                             |
| <b>2018</b>  | 20                              | 80                             |
| <b>2019</b>  | 20                              | 100                            |
| The business tax will be eliminated in 2019.                 |                                 |                                |

An unintended consequence of BTC is the impact on The City’s Rivers District Community Revitalization Levy (CRL). Predating the 2013 implementation of BTC, the CRL was, through the *City of Calgary Rivers District Community Revitalization Levy Regulation*, to capture the uplift in residential and non-residential property taxes above the Rivers District assessment baseline set in 2007 when the CRL was put in place. While non-residential taxes form part of the CRL, the business tax does not. As such there is an unanticipated increase to the CRL, as a result of BTC transfers beginning in 2014, until the CRL expires in 2027. Under the Regulation, CRLs collected must be accounted separately and be used solely for Rivers District purposes.

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Business tax revenues from the Rivers District that were projected to flow into The City's general revenues will therefore be diverted to the CRL. The corresponding increase to the CRL and redirection of funds to the Rivers District will create a shortfall in The City's operating funds. Currently, CRL funds are transferred quarterly to The City's wholly owned subsidiary, the Calgary Municipal Land Corporation (CMLC), net of infrastructure loan payments and other normal adjustments. These funds are then used towards the CMLC's mandate to stimulate the Rivers District redevelopment. The CMLC has agreed that The City will withhold the unanticipated increase to the CRL resulting from the consolidation; totalling \$664 thousand in 2014 from a 10 per cent BTC transfer and \$1.394 million in 2015 from a 20 per cent cumulative

transfer. The funds will be used to fulfill The City's financial commitment to the construction of the New Central Library. In this manner both The City and CMLC budgets will be kept whole, with a neutral BTC impact, and The City will continue to meet the requirements of the *City of Calgary Rivers District Community Revitalization Levy Regulation*.

### *Council Direction 2: Supplementary directions and policies*

#### *Zero per cent business tax rate increase policy*

Council's zero per cent business tax rate increase policy was continued in 2015 and applied to the 2015 business tax rate. As with the 2014 business transfer, this year the policy will apply both to the business tax rate and the portion of the non-residential property tax rate that is associated with consolidation (i.e. all business tax revenues consolidated into the non-residential property tax).

#### *Business Revitalization Zone (BRZ) Financing*

BRZ tax revenue is currently collected through the business assessment process. Administration will continue collecting BRZ tax revenue via this process until a suitable financing alternative is provided by the Government of Alberta under the *Municipal Government Act* (MGA) and/or its regulations. Progress towards possible legislative amendments is as follows.

- i. In May 2012, the Mayor sent a letter to the Minister of Municipal Affairs to (a) communicate BRZ effects from the eventual phase out of the Calgary business tax and (b) advise that The City would advocate for an alternative financing solution for BRZs.
- ii. At a meeting hosted by Assessment in October 2012, BRZs from across the province agreed that an alternate financing solution using the non-residential property assessment system would be beneficial.
- iii. As part of the 2014/2015 MGA review and City Charter discussions currently underway, The City of Calgary, and the City of Edmonton, have proposed legislative changes to allow municipalities to use the property assessment system to administer BRZ levies, making property owners liable for the BRZ tax. If the proposal is adopted, The City's BRZs can continue to receive its funding through the property assessment base instead, once business tax consolidation is complete in 2019.

#### *Grants-in-lieu of taxes*

Administration can confirm that the provincial and federal governments, as well as Canadian Pacific Railway, have paid 2014 grants-in-lieu of both property and business taxes at 100 per cent of the expected amount of grants. Administration expects these grants will continue to be

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paid annually at the same 100 per cent rate; to which Council will be notified through BTC Status Update reports in coming years.

### Council Direction 3: Plans associated with consolidation

#### *Implementation Plan*

Consistent with the implementation plan in Report PFC2012-35 the following actions have been taken since the last Annual Status Report (PFC2014-0217) in April 2014.

#### Implementing in 2015:

- Non-residential and business assessment notices were mailed on January 05 and information on the progress and status of BTC was included in an insert with these notices.
- The *Business Tax Rate Bylaw 3M2015* was passed on January 13 with a rate based on a 20 per cent cumulative transfer of business tax revenues to the non-residential property tax.
- Council passed the annual the *Business Revitalization Zone Tax Bylaw 4M2015* and the *Business Revitalization Zone Tax Rates Bylaw 5M2015* on January 13.
- Business tax notices, with a tax rate set by Bylaw 3M2015, were mailed on February 02.
- The *2015 Property Tax Bylaw 16M2015* with the non-residential property tax rate reflecting a cumulative 4.5 per cent increase, due to the 20 per cent cumulative transfer of business tax revenues, was passed by Council on April 13.
- Administration submitted the *Business Tax Consolidation - 2015 Annual Status Report* (this report) to the Priorities and Finance Committee on May 19 which, pending approval, will be forwarded to Council for information and to approve the 2015 property tax refunds to LBNP organizations.
- The last item in the 2015 cycle is the mailing of property tax notices in May.
- The cycle, except for the LBNP tax mitigation program concluding this year, will repeat in 2016 with the passage of the *2016 Business Tax Bylaw* next November/December.

#### *Communications Plan*

Consistent with the communications plan in Report PFC2012-35 the following actions have been taken since the last Annual Status Report (PFC2014-0217).

#### Actions for 2014:

- On April 1, reminder letters were sent to LBNP organizations that had not applied as of the last BTC update (PFC2014-0217) reminding the organizations of the 2014 December 31 deadline to apply for tax mitigation.
- A letter was sent to non-residential property and taxable business owners on June 16, and a reminder letter was sent on September 4, inviting them to participate in the 2015 Advance Consultation Period (October 06 – November 06) and also to advise them of the upcoming incremental revenue transfer of 2015 business tax revenues to non-residential property tax.
- From October 06 - November 06, Assessment held its 2015 Advance Consultation Period where non-residential band business owners could inquire about, and understand the impact of the 2015 BTC transfer.
- On November 21, a final reminder was sent to all LBNP organizations that had yet to apply for the tax mitigation program.

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### Actions for 2015:

- An insert informing non-residential property and business owners of the 2015 incremental business tax transfer and its impact on their property and business taxes was included with the 2015 non-residential property and business assessment notices sent on January 05.
- BTC related questions were, and will continue to be, answered year-round by knowledgeable assessment staff through Assessment's customer inquiry service.
- The BTC website <http://calgary.ca/btc> was updated with the latest information once Property Tax Bylaw 16M2015 was passed in April.
- The online BTC calculator, which helps non-residential property and business taxpayers see the effects of consolidation, was updated on calgary.ca to reflect 2015 business and property tax rates. For information purposes, the calculator also allows taxpayers to determine the tax amount they would have paid if consolidation had not occurred.

### Council Direction 4: Reporting back to Council

#### a) Implementation Readiness Report

*Business Tax Consolidation – Implementation Readiness Report* (PFC2012-0499) was received for information on 2012 September 24.

#### b) Annual Status Report

Council directed Administration to provide annual reporting through the Priorities and Finance Committee for each year from 2013 to 2019. The 2013 annual report was received by Council on 2013 April 22 and the 2014 annual report was received by Council on 2014 April 26. This report provides the 2015 annual report to Council.

#### c) Final Report

A final report will be submitted through the Priorities and Finance Committee in 2019 July.

### Council Direction 5: Review of mitigation options for limited benefit non-profit organizations

The LBNP tax mitigation program approved through report PFC2012-0139 will see eligible LBNP organizations receive property tax refunds for the 2014 and/or 2015 taxation years. Applications for the tax mitigation program were mailed to all LBNP organizations on 2012 November 30 and 2013 July 26. In addition reminder letters were sent to LBNPs on 2014 April 1 and November 21 seeking applications by the 2014 December 31 deadline to participate in the tax mitigation program. Of the 220 LBNP organizations originally identified through PFC2012-0139:

- 126 were approved for the mitigation program,
- 28 were deemed ineligible for the program because the business premises had moved its location or the organization changed its name,
- 12 were excluded from the program having been found exemption to qualify for full property tax exemption, and
- 54 did not submit applications despite The City's letters and reminders to participate in the mitigation program.

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All qualifying LBNPs are to receive property tax refunds equal to the property tax increase caused by the BTC for the time that each organization is eligible. LBNPs that applied for the mitigation program after the 2014 refunds were approved by Council last year, are to receive both a retroactive 2014 refund as well a 2015 refund. The refunds will be remitted to the property owners as the adjustment is applied to the property tax accounts. If the approved

LBNP leases a property or portion of it; the property owner landlord receiving the refund is to pass on the benefit of the refund to the LBNP tenant.

In 2016, the LBNP tax mitigation program will cease and there will be no further refunds to cover property tax increases to LBNP over the remaining consolidation time frame to 2019.

### **Stakeholder Engagement, Research and Communication**

Assessment has continued to keep taxpayers informed of the BTC process through letters and inserts included with non-residential property and business assessment notices. In addition, Assessment maintains a year-round customer inquiry service to answer assessment and BTC related questions. As of the last Annual Status Report (PFC2014-0217), 16 customers have inquired about the mechanics of consolidation and how the initiative will impact them. Assessment staff have responded to these inquiries promptly and provided necessary information to help property and business owners plan and budget for BTC impacts.

### **Strategic Alignment**

Continuing with BTC aligns with Council's 2015-2018 Action Plan which includes the goal to "Develop an implementation plan for the consolidation of the business tax with the non-residential property tax" under the pillar of "Making Calgary the best place in Canada for a business to start and flourish".

The City of Edmonton, The City of Calgary, and their respective BRZs are of like-mind on a proposal for legislative changes to raise BRZ tax revenues through non-residential property assessment, instead of the business assessment process.

### **Social, Environmental, Economic (External)**

#### **Social**

There are no social impacts in addition to those identified in PFC2012-35.

#### **Environmental**

No environmental impacts have been identified.

#### **Economic**

Owners of properties occupied by LBNP organizations eligible for tax mitigation are to receive tax refunds, as accounted in Attachment. The refund is to be remitted by the property owner to the qualifying LBNP.

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### **Financial Capacity**

#### **Current and Future Operating Budget:**

As a result of the tax mitigation program for the approved LBNP organizations, the total property taxes recommended for refund are \$167,799.59. Finance has confirmed that there are sufficient funds to accommodate the refunds. BTC itself is otherwise revenue neutral to The City. Any efficiency savings to Administration following full consolidation in 2019 will be passed on to non-residential taxpayers.

#### **Current and Future Capital Budget:**

No implications were identified

### **Risk Assessment**

For Recommendation 1, the implementation of business tax consolidation is proceeding as planned. An additional risk to those presented in PFC2012-35 is the shortfall in funds to The City's operating budget through the BTC shift to the non-residential property tax in the River District and its CRL budget. This risk has been mitigated, to keep both The City and CMLC budgets revenue neutral from BTC, through an agreement with the CMLC to use said funds towards The City's financing commitment for the New Central Library project.

For Recommendation 2, if Council does not approve the tax refund amounts as listed in Attachment, the eligible LBNP organizations will have to pay the full property tax amount transferred through BTC for 2015, either through the property owner or directly to The City.

### **REASON(S) FOR RECOMMENDATION(S):**

Recommendation 1:

The implementation of business tax consolidation is proceeding as planned.

Recommendation 2:

Without Council's approval, the limited benefit non-profit organizations listed in Attachment that have applied and are eligible for property tax mitigation, will not receive a tax refund

### **ATTACHMENT(S)**

1. Properties Eligible for Tax Mitigation and Recommended Refund Amounts