

## ASSESSMENT AND TAX CIRCUMSTANCES REPORT

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### EXECUTIVE SUMMARY

Council approval is needed to cancel the applicable 2013, 2014 and 2015 taxes for property and business accounts that meet Administration's criteria for prior year tax cancellation. This report is presented to Council twice annually to effect the timely cancellation or refund of taxes on accounts which meet the criteria and that have been brought to the attention of Administration since the last report. This is the second report this year presented to the Priorities and Finance Committee.

In this report, Administration is also recommending the cancellation of 2014, 2015, and 2016 municipal property taxes for non-profit organizations that applied and qualified under the *Non-Profit Tax Mitigation Policy* (NPTM), which was passed by Council in December 2014.

This report also includes the revised 2016 municipal tax cancellation for the bingo facilities - Bingo Barn, Five Star Bingo & Pub, and Bingo Palace. The tax cancellation was approved by Council through a resolution at the 2016 June 20 Regular Meeting of Council.

### ADMINISTRATION RECOMMENDATION(S)

That the Priorities and Finance Committee recommend that Council under the authority of section 347 of the *Municipal Government Act*:

1. Cancel 2013, 2014 and 2015 property and business taxes that meet Administration's criteria for corrections, for the amounts listed in the Attachment 1.
2. Cancel 2014, 2015, and 2016 municipal property taxes for the qualifying non-profit organizations for the amounts listed in Attachment 2.
3. Receive for information the final 2016 municipal property tax cancellation amounts for the bingo facilities listed in Attachment 3.

### PREVIOUS COUNCIL DIRECTION / POLICY

This report is presented to Council twice annually and Council typically accepts Administration's recommendations, with the most recent instance being through the Consent Agenda at 2016 May 02 Combined meeting of Council.

The *Non-Profit Tax Mitigation Policy* (C2014-0919) represents a Council direction to Administration, which was passed at the 2014 December 14 Regular Meeting of Council.

On the 2016 June 20 Regular Meeting of Council, Council approved a resolution to cancel the 2016 municipal taxes for the bingo facility properties excluding the areas designated for liquor, VLTs, and other non-bingo related gaming activities (PFC2016-0445).

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### **BACKGROUND**

#### Tax Cancellation for Assessment Corrections

Under section 305 of the *Municipal Government Act* (MGA) and section 7(a) of the Business Tax Bylaw 1M2016, Administration may only correct property and business assessment rolls during the current tax year. If an assessment inaccuracy is reported to Assessment during the 60-day Customer Review Period that follows each notice mailing, the assessor may amend the assessment. The amendment triggers a corresponding adjustment to the current year's property or business taxes. If the inaccuracy occurred in a previous year, only Council may cancel, reduce, or refund the taxes that incurred due to the inaccuracy through their legislative authority.

Property and business owners have a responsibility to inform the municipality of assessment errors or changes to their property or business in a timely manner. This will allow Administration an opportunity to correct the errors or make the relevant changes to the business or property assessment accounts within the current taxation year. In certain cases, however, there are circumstances that allow Administration to ask Council to consider exercising its discretionary taxation power under section 347 of the MGA to cancel, reduce or refund property and business taxes for previous years. Section 203 of the MGA specifies that Council may not delegate its powers with respect to taxes.

Generally, valid cancellation requests are for tax amounts that were levied as a result of:

- an incorrect issuance of a property or business assessment
- a property or business assessment that was not corrected appropriately
- a tax exemption that was not processed or not processed correctly
- a business account closure that was not processed or not processed correctly

The inaccuracy must be reported within two years after the inaccuracy occurred for the cancellation request to be considered for inclusion in this report.

Inaccuracies may result from a number of factors, including but not limited to: operational considerations associated with year-end assessment roll production, timing of communication between business units, incorrect data or mailing address information.

#### Exempt Organizations and the Non-Profit Tax Mitigation Policy

The *Non-Profit Tax Mitigation Policy* established by Council on 2014 December 15 through report C2014-0919 is intended to provide tax relief to non-profit organizations holding properties under construction that would normally be exempt from property taxes under the MGA and *Community Organization Property Tax Exemption Regulation* (COPTER). These categories of property tax exemption require that the property and/or the facility are actually in use for an exempt purpose. This Council policy sets out guidelines under which Council will consider the cancellation of the municipal taxes for properties and/or facilities that are under construction and which are held by non-profit organizations that would normally qualify for property tax exemption.

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To ensure efficiency, the Assessment and Tax Circumstances report is the mechanism through which the policy has been implemented. Applications under the policy continue to be received and Council can expect to see requests for cancellations on future Assessment and Tax Circumstances reports.

### Tax Cancellation of Bingo Facilities

The MGA and COPTER establishes criteria non-profit organizations must meet to be eligible for a property tax exemption. With respect to bingo facilities, COPTER section 8(2) state that bingo facilities licenced under the *Gaming and Liquor Act* are not exempt from taxes. As such, the non-profit bingo associations, occupying the Bingo Barn, Bingo Palace, and Five Star Bingo & Pub, through a Notice of Motion NM2016-11, asked Council to use its legislative powers to exempt their facilities from municipal taxes through a municipal bylaw. Council directed Administration to consult the bingo associations and prepare a report to Council with alternatives and recommendations on how the tax status of bingos should be addressed.

PFC Report 2016-0445 presented Council with property tax mitigation alternatives, including a bylaw option, for their consideration. On 2016 June 20, Council approved a municipal tax cancellation for the three non-profit bingo facilities (excluding the areas designated for liquor, VLTs, and other non-bingo related gaming activities) for the 2016 taxation year based on the following two conditions:

1. The bingo associations must maintain their Class "A" bingo facility licence for 2016, and,
2. As all three-bingo associations lease their properties, the property owners must confirm in writing that any benefit of the tax cancellation will be passed onto the bingo associations.

## **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

### Tax Cancellations for Assessment Corrections

Assessment receives requests for tax cancellations directly from taxpayers or from other City of Calgary business units. Each request is investigated to discover if the circumstances align with Administration's criteria for inclusion in this report. The investigation includes researching internal communications and records, speaking directly to the affected taxpayer and working with other relevant City staff.

Each year, Calgarians are encouraged to review and, if needed, ask questions about their property and/or business assessments before the end of the 60-day Customer Review Period that follows each mailing. Inaccuracies to the property or business assessments reported during this period are corrected for the current taxation year. However, special circumstances that have occurred in the previous tax year, such as those listed below, may still arise.

Administration uses the following criteria to determine if a taxpayer's request should be brought forward to Council:

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- the inaccuracy was reported within two years of the occurrence; and
- Assessment was advised of the inaccuracy within the Customer Review Period in the year the inaccuracy occurred, but the correction was either not processed or incorrectly processed; or
- the taxpayer was not aware and/or was not notified of the change in assessment and was unable to bring the inaccuracy to the assessor's attention within the Customer Review Period; or
- the property or business assessment account was set up in error, and the assessment notice was sent to the wrong party; or
- another City department(s) was notified by the taxpayer of a change to the business and Assessment was not notified during the applicable taxation year.

The recommended adjustments to business tax accounts would cancel or reduce municipal business taxes, including Business Revitalization Zone (BRZ) levies where applicable. The BRZ levies are paid in January each year and any increases or decreases are adjusted in the following year.

The recommended adjustment to the property tax accounts due to assessment corrections would cancel or reduce both the municipal and provincial property taxes. Upon cancellation, the provincial portion of the property tax is a cost to The City because the provincial government does not refund its portion.

The funds for both business tax and property tax cancellations are available through The City's prior years' tax cancellation budget, should Council decide to support the recommendation for tax cancellations included in this report. If Council chooses not to support the recommendation, the tax liabilities and amounts owed will remain as originally billed.

Individual requests for previous years' tax cancellation that met these criteria are listed in Attachment 1.

### Tax Cancellations under the *Non-Profit Tax Mitigation Policy*

Administration uses the following criteria to determine if the non-profit organization's request for municipal tax cancellation under the *Non-Profit Tax Mitigation Policy* should be brought forward to Council:

- a building permit for the site has been issued since 2013 January 01
- the organization has filed the necessary application form to qualify for the tax cancellation under the *Non-Profit Tax Mitigation Policy* to Assessment
- the property and/or facility construction has been completed
- the property and/or facility is occupied by the non-profit organization and used for an exempt purpose
- the organization has filed an application for property tax exemption under the MGA or COPTER to Assessment and the application has been approved.

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The non-profit organization must meet all of the previously listed criteria in order to be eligible for tax cancellation under the policy. At the time this report was prepared, five non-profit organizations have met the criteria for tax cancellation. If pending applicants meet all the requirements, they will be brought forward to Council for tax cancellation consideration on future reports.

The individual tax amounts cancelled for each of the qualifying NPTM applicants are listed in Attachment 2.

### Tax Cancellation for Bingo Facilities

The municipal tax cancellations will be applied to five properties leased by the non-profit bingo associations (Attachment 3). Report PFC2016-0445 references three properties; however, it was discovered that The Bingo Palace facility also includes two adjacent properties, from the same property owner, that were not included in the report. The resolution Council approved on 2016 June 20 cancelling the municipal taxes excluded the liquor licensed areas and the non-bingo gaming activity areas. The Five Star Bingo & Pub is the only bingo facility that has a separate licensed liquor area and a non-bingo gaming activity area (VLTs, and Off Track Betting). The taxes relating to these two areas have been calculated and are omitted from the property's municipal tax cancellation.

The municipal tax cancellation amounts listed in Attachment 3 includes these two adjacent properties and excludes the liquor licensed and non-bingo gaming areas resulting in the total recommended cancellation amount to be \$171,621.54, which is about \$5,843 more than the estimated amount in report PFC2016-0445.

The tax cancellations will be credited to the property owner's property tax accounts. To ensure that the Associations benefit from the tax cancellation, a written confirmation is required from each of the property owners stating that the tax cancellation will be passed on to the bingo associations. Administration has received the letters from the three property owners.

Council also directed Administration to advocate the property tax exemption for bingo facilities holding a Class "A" facility licence through the upcoming COPTER amendment consultations conducted by the Government of Alberta. Through the consultation process, Administration has requested the Government of Alberta amend the provisions with respect to gaming and liquor licensed areas to include the property tax exemption of Class "A" Bingo Facilities.

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

This report is a collaborative effort between Assessment, Facility Management, Inspections & Permit Services (specifically the Business Licence and Registry division) and Finance. Throughout the circumstance report process, the business units are in communication, ensuring appropriate investigation and analyses are conducted for an accurate reflection of the tax cancellations proposed.

Subsequent to their initial inquiry, taxpayers are contacted by City staff if additional information is needed to establish whether individual circumstances meet the tax cancellation criteria.

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Assessment advises property or business owners whose tax accounts are included in the report, listed in Attachments 1 and 2 by letter. A second letter advises them of Council's decision regarding the request for cancellation. The tax accounts are then adjusted by Finance and a refund is issued when necessary.

Administration has met, and has been in consistent communication with the three bingo associations regarding Council's direction to cancel the municipal property taxes ensuring that the conditions of the tax cancellation have been met. Administration will also continue to keep the bingo associations informed of any new developments in the COPTER consultation pertaining to the proposed property tax exemption for bingo facilities.

### Strategic Alignment

The recommendation is in alignment with Council's *Action Plan 2015-2018* as the funds for the tax cancellations are included in the budget each year. The recommendations are also aligned with the *Non-Profit Property Tax Mitigation Policy* approved by Council in December 2014.

### Social, Environmental, Economic (External)

The taxpayers who own the properties and businesses listed in the Attachment 1-3 will receive tax cancellations or refunds. With respect to the bingo facilities, the property owners must remit the tax cancellations or refunds to the non-profit bingo associations leasing the properties.

### Financial Capacity

#### Current and Future Operating Budget:

The total taxes recommended for cancellation are \$749,705.16. Finance has confirmed that there are sufficient funds under the prior years' tax cancellation budget to accommodate the tax cancellations for the accounts proposed in the Attachment 1 and the bingo tax cancellations proposed in Attachment 3. The total budget for the prior years' property and business tax cancellations in 2016 is \$1,000,000.

The total budget for municipal tax cancellations proposed in Attachment 2 under the *Non-Profit Tax Mitigation Policy* is an additional \$1,000,000.

At this time, no adjustments to future budget allocations are required to meet the tax cancellation requests set out in this report.

<i>Type of Tax</i>	<i>2016 Tax Cancellations (This Report)</i>	<i>2016 Tax Cancellations (First Report)</i>
<b>Business Tax</b>	\$8,720.46	\$ 51,355.80
<b>Property Tax - Non-NPTM Related</b>	\$109,472.72	\$109,563.81
<b>Property Tax - NPTM Related</b>	\$459,890.44	\$0
<b>Property Tax – Bingo</b>	\$171,621.54	Not Applicable
<b>Total</b>	<b>\$749,705.16</b>	<b>\$160,919.61</b>

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

There are no implications to the capital budget.

### **Risk Assessment**

No implications were identified.

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

Administration is prevented by legislative constraints from making corrections to tax accounts relating to prior years' assessment/tax rolls. The accounts brought forward to Council were identified using criteria in this report. The tax liabilities and amounts owed will remain as originally billed without Council approval.

When Council approved the resolution to cancel the municipal property taxes for the bingo facilities, an estimated municipal tax cancellation amount was available at the time. This report provides Council the exact tax amount for each bingo facility that has been approved for cancellation.

### **ATTACHMENT(S)**

1. List of Proposed Property Tax Cancellations
2. Non-Profit Tax Mitigation Policy Tax Cancellations
3. Bingo Facilities Tax Cancellations