

## ASSESSMENT AND TAX CIRCUMSTANCES REPORT

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### EXECUTIVE SUMMARY

Section 305 of the *Municipal Government Act* (MGA), and section 7(a) of the *Business Tax Bylaw 1M2014*, states that the Assessor can correct errors, omissions or misdescriptions to the assessment roll only during the current taxation year. Inaccuracies that occurred in prior taxation years can be corrected by Council exercising its discretionary taxation power under section 347 of the MGA, to cancel, reduce, or refund property and business taxes. The Assessment and Tax Circumstances Report includes the recommended property and business tax accounts for tax cancellations that have met Administration's criteria for cancellation.

Through this report, Administration is also recommending the cancellation of 2013 business taxes for businesses that reported business closures to the City as a result of the 2013 June Flood.

### ADMINISTRATION RECOMMENDATION(S)

That the Priorities and Finance Committee recommend that Council under the authority of section 347 of the *Municipal Government Act* cancel 2011, 2012 and 2013 property and business taxes for the amounts listed in Attachment 1 and 2.

### RECOMMENDATION OF THE PRIORITIES AND FINANCE COMMITTEE, DATED 2014 APRIL 08:

That the Administration Recommendation contained in Report PFC2014-0218 be approved.

### PREVIOUS COUNCIL DIRECTION / POLICY

Council has accepted Administration's recommendations in the past, most recently at the 2013 September 16 Combined Meeting of Council.

### BACKGROUND

The MGA requires all municipalities to prepare annual property assessments. For municipalities that choose to pass a municipal bylaw authorizing a business assessment and taxation, such as Calgary, these assessments must also be done on an annual basis. These annual assessments ensure that market changes are captured regularly and that property and business owners are treated fairly and equitably when taxes are levied each year. In 2014 the Assessment business unit (Assessment) sent approximately 475,000 property assessment notices with an assessment value of approximately \$276 billion. In 2014, Assessment also sent approximately 26,000 business assessment notices with an assessment value of about \$3.15 billion.

There are circumstances in which an assessment is found to be inaccurate resulting in a property or business owner being levied the incorrect amount of taxes. This can result from a number of causes ranging across multiple business units and includes but is not limited to, operational considerations due to roll production that occur late in the year and are necessary to adhere to Alberta's annual assessment and tax cycle, timing of communication between business units, and / or inaccuracies with mailing address information, physical building data, etc.

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If the inaccuracy occurred in the current year and is reported to the Assessment business unit during the 60-day Customer Review Period, the property or business assessment may be amended by the assessor, triggering an adjustment to the property or business taxes. If the inaccuracy occurred in a previous year, only Council may address the inaccuracy through the cancellation, refund or reduction of property or business tax.

The Assessment and Tax Circumstances Report is presented to Council, when necessary, recommending property and business tax accounts that require tax cancellations due to an inaccuracy that occurred in a previous taxation year. Administration uses the following criteria as a guide on which accounts qualify for inclusion in the report:

- a) The Assessment business unit 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,
- b) 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,
- c) The property or business assessment account was set up in error, and the assessment notice was sent to the wrong party; or,
- d) Another City department(s) was notified by the taxpayer of a change to the business and the Assessment business unit was not notified accordingly during the applicable taxation year to correct the assessment.

The inaccuracy must be reported within two years after the inaccuracy occurred.

### *Businesses Affected by the 2013 June Flood*

The 2013 June flood proved to have an impact to not only residential and non-residential properties, but also to businesses occupying premises in the flood damaged properties. Many of these businesses had to close their locations due to the flood. In many cases, The City issued cease occupancy notices to the flood affected businesses until inspections were conducted to ensure public safety. Many businesses in the flood affected areas had to close their locations either temporarily until renovations have been completed or in certain cases permanently.

In accordance with the Business Tax Bylaw 1M2014 (Bylaw), only persons who operate and occupy premises for business purposes will be assessed a business assessment for the purposes of imposing business taxes. However, if the business is no longer in operation and not occupying a premises for more than 30 days, the owner is to notify The City in the current year and the tax account is adjusted to the number of months the business occupied the premises. If the business occupies the premises for a portion of more than 15 days within a month, it is assessed and taxed for the full month.

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Flood affected businesses owners that were able to inform The City of their closures within the 2013 taxation year received adjustments to their 2013 business tax account to the number of assessable months that they were occupying the premises.

If business owners advises the City of closures in 2014 or late 2013 (too late to process an amendment to the 2013 tax roll), their 2013 business taxes cannot be adjusted by Administration as it is only allowed to make corrections within the current taxation year. For these businesses to receive a refund or cancellation to their 2013 business taxes, Council has to use its discretionary taxation power under section 347 of the MGA to refund the business taxes.

Any requests for business tax cancellations from flood affected businesses Administration receives after the preparation of this report will be considered for the next Assessment and Tax Circumstances report expected to be presented to Council in the fall.

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

The reasoning behind this report is to cancel and refund, where applicable, previous year property and/or business taxes that were levied as a result of:

- an incorrect issuance of a property or business assessment
- the business or property assessment was prepared incorrectly
- exemption was not processed during the current year
- the business account closure not getting processed within the tax year the closure was reported to The City
- the business account closure not processed correctly
- closure of business accounts affected by the June 2013 flood (Attachment 2)

Assessment receives requests for tax cancellations directly from taxpayers or from other City business units such as Finance and Supply (Finance). Each request is investigated by Administration as to whether or not the prior year circumstances comply with Administration's criteria for previous years' tax cancellation. The investigation usually includes researching internal communications and records, speaking directly to the affected taxpayer or communicating with other relevant City of Calgary staff.

The cancellations to the tax accounts are based on what the correct property or business assessment would have been in the prior year(s), less the property or business assessment originally issued. On Council approval, the difference in the taxes is either cancelled or refunded to the taxpayer.

Attachment 1 is the proposed list of recommended property and business tax accounts that fall under one or more of the criteria for previous years' tax cancellations. The adjustment to the property tax accounts would cancel or reduce both the municipal and provincial property taxes. Upon cancellation, the provincial portion of taxes is the responsibility of, or cost to, The City, as the provincial government does not refund its portion. These funds are obtained through The City's prior years' tax cancellation budget. The business tax account adjustments would cancel or reduce municipal business taxes, including Business Revitalization Zone (BRZ) levies where

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applicable. The BRZ levies are paid in January each year and any increases or decreases are adjusted in the following year. The business tax cancellations are also funded through the utilization of the prior years' tax cancellation budget.

Administration will continue to improve internal processes and the internal communication and information sharing across business units to limit the number of future tax cancellations. In addition, Administration continues to improve external communications to ensure that taxpayers are informed of the processes involved in Assessment. Administration is providing information through the Assessment business unit's communications including, the website, the assessment notice, and brochure to ensure the taxpayers understand their opportunity to review their business and/or property assessments and inform the Assessment business unit of any inaccuracies during the 60-day Customer Review Period.

### *Tax Cancellation for Businesses Affected by the 2013 June 20 Flood*

Assessment worked with Development Building and Approvals (DBA) to develop a process in which businesses that were no longer in operation due to the flood can get an adjustment to their business taxes within the parameters of the MGA and the Business Tax Bylaw.

Business owners are to contact DBA and close their business from the date of the flood, 2013 June 20, in order for them to get a business tax adjustment for the period of time their business was closed. If they contacted The City within the 2013 taxation year, their business tax adjustments were processed and refunds, if applicable, were issued to them. By the end of the 2013 taxation year, 16 business closures due to the flood were processed and business taxes were adjusted accordingly. In accordance to the Business Tax Bylaw, adjustments made to these business accounts were pro-rated to include the entire month of June. However, in order to align with the Property Tax Mitigation Program for flood affected properties, the business tax adjustments should be pro-rated to the date of the flood. Therefore, Administration is recommending Council cancel the business taxes from June 20-June 30 (11 days) for the 15 business tax adjustments done by Administration in 2013 (Attachment 2). One of the 16 business closures processed in 2013 was a business tax exempt organization, so a cancellation is not required.

As Administration can only make amendments to business assessments/tax accounts within the current taxation year, any flood affected businesses that reported closures in late 2013 or 2014 will require Council's approval for 2013 business tax cancellations. Business tax adjustments could not be processed for the businesses that contacted The City late in December 2013, as Assessment, at the time, could not make any changes to business accounts in preparation for the 2014 Assessment Roll. For this report, 13 business owners informed The City of their business closures either late 2013 or early 2014. Administration is recommending Council to approve the business tax cancellations (Attachment 2) for the days these businesses were not occupying the premises.

The resulting business tax cancellations would also cancel associated BRZ levies. The business tax refunds for these flood affected businesses will be funded by the prior years' tax cancellation budget.

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Administration will present a revised version of this report and Attachment 2 to The Priorities and Finance Committee should more flood affected businesses report closures to The City prior to the Committee meeting date.

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

The report is a collaborative effort between the Assessment and the Finance business units. Throughout the circumstance report process, the two business units are in communication ensuring appropriate investigation and analyses are conducted for an accurate reflection of the tax cancellations proposed.

Assessment also collaborated with DBA, specifically the Business Licence and Registration division to ensure that the flood affected businesses have closed their location and if applicable their business licences. They directly sent Assessment the requests to include these accounts on this report for tax cancellation consideration.

Taxpayers are contacted if more information is necessary to ensure that the circumstances around the inaccuracy meet one or more of the prior years' tax cancellation criteria. Assessment communicates with the taxpayers by sending a letter to the property or business owners whose tax accounts are included in the report. A follow-up letter will also be issued regarding Council's decision. The tax accounts are then adjusted and when necessary, a refund issued.

### **Strategic Alignment**

The recommendation is in alignment with the Council's 2012-2014 Business Plans and Budget as the funds for the prior year tax cancellations are included in the budget each year.

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

#### **Social**

No implications were identified

#### **Environmental**

No implications were identified

#### **Economic (External)**

The taxpayers who own the properties and businesses listed in the Attachment 1 and 2 will receive tax cancellations or refunds.

### **Financial Capacity**

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

The total taxes recommended for cancellation are \$681,817.24. Finance has confirmed that there are sufficient funds under the prior years' tax cancellation budget to accommodate the tax

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cancellations for the accounts proposed in Attachment 1 and 2. The total budget for the prior years' property and business tax cancellations in 2014 is \$997,000.

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>2014 Tax Cancellations (\$)</i>	<i>Total Tax Cancellations (\$)</i>
<b>Property Tax</b>		\$519,267.48	\$519,267.48
<b>Business Tax</b>	<i>Flood Related</i>	\$70,209.59	\$162,549.76
	<i>Non-Flood Related</i>	\$92,340.17	
<b>Total</b>		<b>\$681,817.24</b>	<b>\$681,817.24</b>

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

There are no implications on the capital budget.

### **Risk Assessment**

No implications were identified.

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

Administration's recommendation for Council to cancel the taxes for the accounts listed Attachment 1 and 2 is due to Administration's legislative constraint to correct inaccuracies to prior years' property and business assessments, coupled with the rationale, implemented through specific criteria, identified in this report.

While Administration makes an effort to correct inaccuracies within the current taxation year, there are special circumstances in which Administration was unable to do so within the current taxation year. Without Council approval, the tax adjustments noted in Attachment 1 and 2 will not be applied to the accounts.

### **ATTACHMENT(S)**

1. List of Proposed Tax Cancellations
2. Flood Affected Business Tax Cancellations