

EXPLANATION OF PROPERTY AND BUSINESS TAX EXEMPTIONS

In Alberta, property tax exemptions are generally legislated by the provincial government through the *Municipal Government Act* (MGA) and the *Community Organization Property Tax Exemption Regulation* (COPTER), which is then administered by municipalities. Business tax exemptions are generally part of the annual *Business Tax Bylaw* passed by Council, though there are provincially mandated statutory exemptions for businesses operated by the Crown and airports and a regulatory exemption for offices of members of the legislative assembly.

When a property or business tax exemption is granted by The City of Calgary, the remaining property or business taxpayers must pay the taxes that would have otherwise been paid by the exempt property or business owner. This is due to the way in which the property and business tax rates are calculated (i.e., dividing the amount of revenue required by the taxable assessment base as in Figure 1).

Figure 1

$$\frac{\text{revenue required}}{\text{taxable assessment base}} = \text{tax rate}$$

Any previously taxable property or business that is rendered exempt by virtue of ownership and/or use is removed from the taxable assessment base. As shown in Figure 2, this results in an increase to the tax rate. This effect is small on an individual basis but is substantial when all exempt properties and businesses are considered.

Figure 2

$$\frac{\text{revenue required}}{\text{taxable assessment base} \downarrow} = \text{tax rate} \uparrow$$

Therefore, the overall effect of a property or businesses tax exemption is that the remaining tax payers provide an indirect subsidy to organizations that are exempt from taxation.

Current provincial property tax exemption legislation does not exempt organizations that, though non-profit, are structured to benefit their members (i.e. limited benefit) rather than the greater community. These types of organizations are, however, generally exempt from business tax due to provisions in the *Business Tax Bylaw*.

In approaching this issue, it is useful to look at the rationale for property and business tax exemptions. The Government of Alberta has produced a guide for property tax exemption and included in the guide are the principles on which property tax exemptions are based. They are:

- advancement of 'public benefit', in terms of charitable and benevolent purposes, community games, games, sports, athletics, recreation, and educational purposes;
- recognition of the 'volunteer contribution and fund raising component' that most often characterizes 'not for profit' status organizations;
- advancement of youth programs and community care for the disadvantaged; and,
- appropriate access to non-profit facilities.

Business tax exemptions are determined through Section 18 of The City's annual *Business Tax Bylaw*. The current exemption provisions were established through the business tax exemption

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policy process in 2009. The stated purpose of the business tax exemption policy “is to foster a business tax exemptions framework that:

- a) is largely consistent with the property tax exemptions policy under the MGA because both are municipal taxes;
- b) relieves certain businesses, that provide a specified benefit to Calgary and its residents, of the obligation to business tax; and
- c) promotes a level playing-field for all business entities with commercial activities.”

The Concept of Use

In general, property tax exemptions related to non-profit organizations and contained in the section 362(1)(n) of the *Municipal Government Act* (MGA) and the *Community Organization Property Tax Exemption Regulation* (COPTER) are determined on the basis of the use of the property. The word “used” was the subject of judicial interpretation in a 2008 court case between The City of Edmonton and North Pointe Community Church. In the decision the court found as follows with respect to the exemption provided for churches in section 362(1)(k) of the MGA,

In my view, the term “used” is not ambiguous. Intention to use does not equate to use... I note that nowhere in the MGA is the term “used” qualified by “actually” or any similar adverb. However, the MGA does contain a number of provisions where property is described as “intended for or used”.

...

There is nothing in the exempting provision or any reasonable interpretation of it that somehow makes the intent of the religious body or the stage of construction of the building relevant to the applicability of the exemption, except to the extent that a certain level of completion facilitates actual use.

As per the decision, Administration does not approve an exemption until a property is occupied and used for an exempt purpose.