

Relevant Legislation

Exemptions by Provincial Legislation

The *Municipal Government Act* directly exempts certain types of properties (like Crown and municipally owned property and places of worship). Some other properties have been made tax-exempt through a Private Act. (These include Calgary Chinese Cultural Centre Association, the YMCA and YWCA, Calgary Jewish Centre, for example.)

The *Act* also contains provisions to exempt certain types and uses of property held by non-profit organizations if they fulfill conditions that are set out in the regulations. The types of property (listed in s.362(1)(n)) first must be:

(i) owned by a municipality and held by a non-profit organization in an official capacity on behalf of the municipality,

(ii) held by a non-profit organization and used solely for community games, sports, athletics or recreation for the benefit of the general public,

(iii) **used for a charitable or benevolent purpose that is for the benefit of the general public, and owned by**

(A) the Crown in right of Alberta or Canada, a municipality or any other body that is exempt from taxation under this Division and held by a non-profit organization, or

(B) **by a non-profit organization** [emphasis added]

The *Act* further requires property licenced under the *Gaming and Liquor Act* to meet additional conditions, also set out in the regulation.

The regulation that specifies the additional conditions for eligibility is the *Community Organization Property Tax Exemption Regulation*. It requires that the non-profit organization be incorporated under the *Alberta Societies Act* or other relevant provincial or federal legislation, like the *Not-for-profit Corporations Act* or *Canada Corporations Act, Part II (Not-for-Profit Organizations)* or as a charity registered under the *Income Tax Act*. It also prohibits any income distribution to organization shareholders or members. The non-profit organization may either own or hold the property by lease, licence or permit, and access to the property must be permitted to all individuals.

In terms of bingo facility property and property that is licenced to sell liquor to the public, the most important conditions for eligibility is in Section 8 of the *Regulation*. If the kind of gaming or liquor licence at the property is for a single or a limited number of events, property held by non-profit organizations that meet other conditions in the *Regulation* may be eligible for a property tax exemption. If the property is licenced to operate on a continuing basis as a bingo facility or casino, or as a public bar, it is not eligible for a tax exemption even the property is connected to a non-profit organization.

Gaming and liquor licences

8(1) For the purposes of section 365(2) of the *Act*, property described in section 362(1)(n) of the *Act* and Part 3 of this *Regulation* in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this *Regulation* in respect of the property are met.

(2) Despite subsection (1), **property in respect of which a bingo facility licence or casino facility licence is issued is not exempt from taxation.** [emphasis added]

Exemptions by Council

Cancellation

Under Alberta's *Municipal Government Act*, a Council has the ability to cancel, reduce, refund or defer taxes owing on any property type, whether it is used for non-profit or for profit purposes. Cancellations are administered on an *ad hoc* or annual basis through Council Resolution. A Resolution can be used to address tax liability on a single property or a group of properties:

347(1) If a council considers it equitable to do so, it may, generally or with respect to a particular taxable property or business or a class of taxable property or business, do one or more of the following, with or without conditions:

(a) cancel or reduce tax arrears:

(b) defer the collection of a tax.

Bylaw

Under Alberta's *Municipal Government Act*, Council is permitted to use bylaws to exempt properties held by non-profit organizations incorporated under Alberta's *Societies Act* or other relevant legislation that prohibits it from distributing income or property to its shareholders. The exemption granted may be for the whole or part of the amount owing. Bylaws may be annual, for a set term or indefinite.

364(1) A council may by bylaw exempt from taxation under this Division property held by a non-profit organization.

(1.1) A council may by bylaw exempt from taxation under this Division machinery and equipment used for manufacturing or processing.

(2) Property is exempt under this section to any extent the council considers appropriate.

Council Authority

Powers related to bylaws or taxation cannot be delegated to Administration. Council is not permitted to delegate any of its. Section 203(2) states as follows:

203 (2) A council may not delegate

(a) its power or duty to pass bylaws, [...]

(d) its power with respect to taxes under section 347