

Planning & Development Report to
Priorities and Finance Committee
2018 October 02

ISC: UNRESTRICTED
PFC2018-1118

Assessment and Tax Circumstances Report

EXECUTIVE SUMMARY

Council approval is needed to cancel taxes accrued in individual tax accounts. This report is presented to Council twice annually and this is the second report this year. The report includes the applicable 2016 and 2017 taxes accrued in property and business accounts that meet Administration's criteria for prior year tax cancellation. This report also includes the applicable municipal property taxes for non-profit organizations that applied and qualified for tax cancellations under the *Non-Profit Tax Mitigation Policy*.

ADMINISTRATION RECOMMENDATION:

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

1. Cancel property and business taxes for the amounts listed in the Attachment 1.
2. Cancel 2018 municipal property taxes for the qualifying non-profit organizations for the amounts listed in Attachment 2.
3. That Report PFC2018-1118 be forwarded to the October 15, 2018 Meeting of Council.

PREVIOUS COUNCIL DIRECTION / POLICY

Section 305 of the MGA does not allow assessors to change the property or business information in an assessment account, or the resulting assessment value, after the end of the tax year to which the assessment applies. In certain circumstances, Administration will recommend that Council consider exercising its discretionary taxation power under section 347 of the Municipal Government Act (MGA) to cancel taxes that correspond to property or business assessment rolls of prior tax years.

Section 203 of the MGA specifies that Council may not delegate its powers with respect to taxes, including its authority to cancel, reduce or refund prior year property and business taxes. Through the City of Calgary Charter, Council has the option to delegate this authority through a Charter Bylaw as long as the total amount to be cancelled, refunded or deferred in a taxation year does not exceed \$500,000 in a calendar year. In June 2018, Council chose to exercise this option and establish Bylaw 1H2018, the Tax Penalty Cancellation Delegation Charter Bylaw, to allow Administration to adjust property tax penalties that qualify under the Compassionate Property Tax Penalty Relief Program set out in PFC2018-0325. Cancellations requested through the Assessment and Tax Circumstances Report are not related to that program or Bylaw.

At the 2018 December 15 Regular Meeting of Council, through C2014-0919, Council adopted the *Non-Profit Tax Mitigation Policy* to cancel the property taxes of non-profit organizations that paid tax during the construction period of their facility and whose subsequent use of the property

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met criteria for property tax exemption. The *Policy* is administered using the Assessment and Tax Circumstances Report for administrative efficiency.

BACKGROUND

Section 305 of the MGA does not allow assessors to change the property or business information in an assessment account, or the resulting assessment value, after the end of the tax year to which the assessment applies. In certain circumstances, Administration will recommend that Council consider exercising its discretionary taxation power under section 347 of the *Municipal Government Act* (MGA) to cancel taxes that correspond to property or business assessment rolls of prior tax years.

Section 203 of the MGA specifies that Council may not delegate its powers with respect to taxes, including its authority to cancel, reduce or refund prior year property and business taxes.

Tax Cancellations Related to Prior Years' Assessment Rolls

Property and business owners are reminded annually through various communication methods that they have a responsibility to inform the municipality of assessment errors or changes to their property or business in a timely manner. Section 305 of the MGA and section 7(a) of Business Tax Bylaw 1M2018 allow Administration to make corrections or amendments to property and business assessment rolls throughout the current tax year. A current year amendment to an individual assessment triggers a corresponding adjustment to the current year property taxes or business taxes for that individual account.

Inaccuracies in assessment rolls 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.

Generally, valid cancellation requests are for tax amounts that were levied as a result of one of the following four circumstances:

- Category I: a property or business assessment that was not corrected appropriately
- Category II: a tax exemption that was not processed or not processed correctly
- Category III: an incorrect issuance of a property or business assessment
- Category IV: a business account closure or move that was not processed or not processed correctly

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

Exempt Organizations and the Non-Profit Tax Mitigation Policy

The *Non-Profit Tax Mitigation Policy* adopted by Council through C2014-0919 provides criteria for circumstances in which Administration may recommend Council to cancel municipal taxes that correspond to a period when an eligible non-profit property was under construction.

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Property tax exemptions are governed by the MGA and the *Community Organization Property Tax Exemption Regulation* (COPTER). Provisions in the legislation differ based on the use of the property and the nature of the organization that holds it. One of these differences is the tax treatment of non-profit-held property that is not in use because of construction or renovation. Property held by specific entities such as public institutions (e.g. hospitals, public colleges and universities) is exempt from property tax when it is under construction. Property that is held by non-profit organizations to be used for an approved activity (e.g. places of worship, chambers of commerce, food banks, and under certain conditions, arts and cultural activities) is not property tax exempt until it is actually in use for these purposes.

To be considered for municipal property tax cancellation under the *Non-Profit Tax Mitigation Policy*, organizations must attain a property tax exemption for the property under the provincial legislation. Until the property is completed and occupied, and being used for the exempt purpose, applicants must pay municipal and provincial property taxes. Once the *Policy* criteria are met, up to four years of the municipal taxes paid over the construction period are subject to retroactive cancellation.

For administrative efficiency and timeliness, the *Policy* has been implemented using the Assessment and Tax Circumstances Report as the mechanism to bring these to Council for approval.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Tax Cancellations Related to Prior Years' Assessment Rolls

Property and business owners are encouraged each year 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 assessment notice mailing.

Assessment sometimes receives requests for the cancellation of taxes from prior tax years; these may come directly from taxpayers or from other City business units. The investigation of each request can include researching internal communications and records, speaking directly to the affected taxpayer and working with other relevant City staff.

Administration uses the following criteria to determine if the circumstances and corresponding property or business tax amounts should be brought forward to Council in this biannual report:

- 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,

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- another business unit was notified by the taxpayer of a change to a business premises and Assessment was not notified during the applicable taxation year.

The recommended adjustments to business tax accounts in this report would cancel or reduce municipal business taxes, and Business Improvement Areas (BIA) levies where applicable. The levies are distributed to BIAs in January each year and adjustments are made in the following year if there are increases or decreases.

The recommended adjustments to the property tax accounts due to assessment roll 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 prior years' tax cancellation that met Administration's criteria are listed in Attachment 1.

Tax Cancellations Related to the Non-Profit Tax Mitigation Policy

To assist non-profit organizations in applying for tax-relief under the *Non-Profit Tax Mitigation Policy*, Administration provides information about the *Policy*, how to qualify and the application process on Calgary.ca, via email and by phone year-round.

Requests for the cancellation of municipal taxes related to exemptible property held during periods of construction come from non-profit organizations on an ongoing basis.

The *Policy* ensures that tax cancellations for properties and/or facilities that are under construction are conducted in an equitable and consistent manner through an open and transparent process. It uses the following criteria to determine if the circumstances and corresponding municipal property tax amounts should be brought forward to Council:

- a building permit for the site was issued after 2013 January 01, the date established in the *Policy*, and
- the organization has filed the necessary application form to request tax cancellation under the *Non-Profit Tax Mitigation Policy* to Assessment, and
- the property and/or facility construction has been completed, and
- the property and/or facility is occupied by the organization and is being used for an exemptible purpose, and
- upon completion and occupancy, 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 above criteria in order to qualify for a municipal tax cancellation under the *Policy*.

The value of the cancellation amount is based on municipal tax levied during the eligible period the property was under construction and is retroactive to the organization attaining property tax exemption under provincial legislation. The eligible period begins the year that the required application is submitted to Assessment. If the application is submitted in the same year that the building permit is issued, the eligible period begins as of the date the permit is issued. If the application is submitted in a year subsequent to the issuance of the building permit, the eligible period begins on January 01 of that year. The period ends either four years from the date that the eligible period begins or when the property becomes exempt from taxation, whichever is earlier.

At the time this report was prepared, two non-profit organizations have met the criteria for municipal property tax cancellation under the *Policy*. Applicants that meet all requirements will be brought forward to Council for tax cancellation consideration in future reports.

The recommended adjustment due to the *Non-Profit Tax Mitigation Policy* would cancel or reduce only the municipal property taxes in that organization's account. If Council chooses not to support the recommendation, the tax liabilities and amounts paid will remain as originally billed.

The individual tax amount cancelled for the qualifying *Non-Profit Tax Mitigation* applicants is listed in Attachment 2.

Stakeholder Engagement, Research and Communication

This report is a collaborative effort between Assessment, Business Registry, 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.

Taxpayers and non-profits are contacted by City staff subsequent to their initial inquiry if additional information is needed to establish whether individual circumstances meet the tax cancellation criteria.

For tax cancellation requests related to prior years' assessment rolls, Assessment advises property or business owners listed in Attachment 1 if their requests are included in the report. A second letter advises them of Council's decision.

For tax cancellations related to the *Non-Profit Tax Mitigation Policy*, non-profits are advised of eligibility during the application or circumstance report process and those listed in Attachment 2 will be advised of Council's decision.

The accounts of approved tax cancellations are then adjusted by Finance and a refund is issued when necessary.

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Strategic Alignment

The recommendations are in alignment with *Action Plan 2015-2018* and with the *Non-Profit Property Tax Mitigation Policy*.

Social, Environmental, Economic (External)

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

Financial Capacity

Current and Future Operating Budget:

The total taxes recommended for cancellation are \$133,237.92. Finance has confirmed that there are sufficient funds in Corporate Costs (program 861) to accommodate the tax cancellations for the accounts proposed in Attachment 1 and 2. The total budget for the prior years' property and business tax cancellations in 2018 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>2018 Tax Cancellations (This Report)</i>
Property Tax - Non-NPTM Related	\$118,428.32
Business Tax	\$2,335.06
Property Tax - NPTM Related	\$12,474.54
Total	\$133,237.92

Current and Future Capital Budget:

There are no implications to the capital budget

Risk Assessment

No implications were identified.

REASONS FOR RECOMMENDATIONS:

Administration is prevented by legislative constraints from (1) making corrections to tax accounts relating to prior years' assessment and tax rolls, and (2) providing tax exemptions to otherwise eligible non-profit organizations whose properties are under construction. The accounts brought forward to Council were identified using the criteria within this report. The tax liabilities and amounts owed will remain as originally billed without Council approval.

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ATTACHMENTS

1. Attachment 1 – List of Tax Cancellations Related to Prior Years Assessment Rolls
2. Attachment 2 – List of Tax Cancellations Related to the Non-Profit Tax Mitigation Policy