



MINISTRY OF FINANCE

PROPERTY ASSESSMENT AND CLASSIFICATION REVIEW - NON-PROFIT ORGANIZATIONS

ISSUES AND RECOMMENDATIONS

NON-PROFIT ORGANIZATIONS

During the consultations, several stakeholders requested an expansion of existing tax relief programs for non-profit organizations.

Prior to 1998, properties that were occupied by charities and non-profit organizations were, as a general rule, taxed at the residential rate and were not subject to business occupancy tax. There were some exceptions to this general rule; for example, some charitable and philanthropic organizations were exempt from property taxation under private legislation or under section 3 of the *Assessment Act*.

In 1998, when the business occupancy tax was eliminated and the separate assessment of tenant units was discontinued, the following mechanisms were put in place to facilitate tax relief for charities and non-profit organizations that would be similar to their pre-reform treatment:

- **Residential Class:** Under O. Reg. 282/98, property that is owned and occupied by one of the following entities is included in the residential property class:
 - non-profit organization which operates a child care facility;
 - religious organization;
 - non-profit service organization (which is defined in the regulation as "an organization whose primary function is to provide services to promote the welfare of the community and not only to benefit its members");
 - non-profit cultural organization (which is defined in the regulation as "an organization that is established and maintained for cultural activities for Canadians of a specific ethnic origin, including First nations peoples");
 - non-profit private club;
 - non-profit recreational sports club.
- **Rebates to Charities:** Under section 442.1 of the *Municipal Act*, charitable organizations that have a registration number issued by the Canada Customs and Revenue Agency and that occupy commercial or industrial property (whether they are the property owner or the tenant)

are entitled to receive an annual rebate of 40% of their property taxes.

- Upper-tier and single-tier municipalities have the discretion to expand this rebate program. They can require that rebates greater than 40% be paid to charities, and they have the option of directing that rebates (in any amount) be paid to charities located in residential or multi-residential property.
- **Rebates to Non-Profit Organizations:** Under section 442.1(4) of the *Municipal Act*, upper-tier and single-tier municipalities have the option of implementing a program to provide property tax rebates to non-profit organizations that are "similar to eligible charities".
 - Each upper-tier and single-tier municipality has the discretion to identify which (if any) organizations will constitute "similar" organizations for the purpose of this rebate program. Municipalities can specify the name of qualifying organizations (e.g. Royal Canadian Legion) or they can identify types of organizations (e.g. organizations dedicated to the protection of the natural environment).
 - Rebates of up to 100% of the property tax can be provide to qualifying non-profit organizations located in any property class.
- **Exemptions:** The exemptions from taxation for organizations and properties listed in section 3 of the *Assessment Act* and in private legislation have been maintained.

The specific requests for expansion of tax relief programs that were received from the non-profit sector and from municipal representatives during the consultations included the following:

- give lower-tier municipalities the option of providing rebates to non-profit organizations;
- expand the categories of organizations that are eligible for the mandatory 40% rebate under section 442.1 of the *Municipal Act*;
- expand the categories of non-profit organizations that are eligible for inclusion in the residential property class;
- expand the categories of organizations that are eligible for exemption from taxation under section 3 of the *Assessment Act*.

Recommendation:

- It is recommended that the rebate program under section 442.1 of the *Municipal Act* be enhanced to give lower-tier municipalities the option of providing property tax rebates to non-profit organizations that have not been made eligible for rebates by the upper-tier level of municipal government. Expanding the rebate program in this manner would enable local municipalities to address local issues.

Where rebates are initiated by a lower-tier municipality, it is recommended that the cost of the rebates be shared in the same manner

as tax relief for brownfield sites or heritage properties under sections 442.7 and 442.8 of the *Municipal Act* whereby the lower-tier municipality decides on a percentage of tax relief to be provided, a matching percentage of the education tax may be provided, and the upper-tier municipality is given the option of providing matching relief in respect of its portion of the tax.

- It is recommended that the definition of "non-profit service organization" be clarified to ensure that non-profit animal shelters, which by their nature provide a service for the welfare of the community, are eligible for inclusion in the residential property class.
- Expansions to the list of statutory exemptions are not recommended at this time. It is believed that the broad tax rebate authority that has been given to municipalities under section 442.1 of the *Municipal Act* should obviate the need to enact further tax relief measures.

OFFICE BUILDING AND SHOPPING CENTRE CLASSES

The office building class and the shopping centre class are among the optional property classes which municipalities may choose to adopt for the purpose of applying different tax rates to different types of properties.

The office building class includes the rentable area of an office building that exceeds 25,000 square feet. ("Office building" is defined to mean a building that is used primarily for offices.) The shopping centre class includes the rentable area of a shopping centre that exceeds 25,000 square feet. ("Shopping centre" is defined to mean a structure with at least three units, having different occupants, that primarily provide goods or services to the public.) Properties that are included in these classes are not actually included in their entirety. It is only the portion of an eligible property that exceeds 25,000 square feet that is included in the office building or shopping centre class. The first 25,000 square feet remain in the commercial class.

The intention behind the 25,000 square foot threshold was to maintain smaller properties predominantly within the commercial class. This design feature was premised on the assumption that municipalities would tend to set higher tax rates for the office building and shopping centre classes than for the commercial class, and in this regard, the 25,000 square foot threshold was designed to protect smaller properties from tax increases.

Two issues relating to these classes were raised during the consultations.

- It was proposed that the 25,000 square foot threshold should be eliminated because it adds needless complexity to the assessment and taxation process. It was suggested that properties should either be in or out of the classes in their entirety.
- If the 25,000 square foot thresholds are maintained, it was pointed out that O. Reg. 282/98 is not clear as to how the thresholds should be applied. Specifically, in the situation where there is more than one eligible building on a property (for example, where there are two stand-alone office towers on a single parcel of land), it is not clear from the regulation whether a single 25,000 square foot threshold should be applied to the entire parcel or whether separate 25,000

square foot thresholds should be applied to each eligible building on the property with the result that more than 25,000 square feet would be in the commercial class for some properties.

Recommendation:

- It is recommended that the 25,000 square foot thresholds be maintained for the office building and shopping centre classes.
- It is recommended that there be only one 25,000 square foot threshold applied to each parcel of land on which there are one or more buildings that are eligible for inclusion in the office building or shopping centre classes.

Discussion:

Applying multiple 25,000 square foot thresholds to a single property would defeat the intent of the thresholds which was to maintain the commercial classification on smaller properties, not to augment the portion of larger properties that would be included in the commercial class.

PARKING LOTS AND VACANT LAND CLASS

Rates and Ratios

The parking lots and vacant land class is one of the optional property classes that municipalities may choose to adopt.

This class includes properties which would otherwise be in the commercial class and which fall within one of the following categories:

- a parcel of land that is used exclusively for the parking of vehicles;
- vacant land; or
- land that is a railyard, owned and used exclusively by a railway company, upon which no building or structure other than railway tracks is located.

This class was created in 1998 to give municipalities a vehicle for addressing the tax increases that land-intensive properties were facing upon the reassessment due to the significant increase in the value of these properties relative to built commercial properties. Adoption of this class enables municipalities to apply a reduced tax rate to these properties to offset or neutralize the reassessment-related tax impacts.

Concern was expressed during the consultations in relation to vacant land and railyards. Both of these properties are normally included in the vacant land sub-class which is taxed at 70% of the commercial class tax rate. (This tax rate reduction is provided to reflect the pre-reform treatment

whereby these properties did not formerly pay business occupancy tax.) When a municipality adopts the parking lots and vacant land class, vacant land and railyards are removed from the commercial vacant land sub-class and transferred to the parking lots and vacant land class.

It has been observed that in some municipalities, a tax rate is being applied to the parking lots and vacant land class that is considerably higher than the rate that is levied on the vacant land sub-class. In some cases, a rate is being levied that is almost as high as the commercial class tax rate.

Recommendation:

- It is recommended that restrictions be placed on the tax ratio of the parking lots and vacant land class to ensure that vacant land and railyard properties are not penalized by the application of this class.

The tax rate of this class should be no higher than the rate that would be levied on vacant land and railyard properties in the commercial vacant land sub-class.

Sub-Classes

A proposal was made to create parking lot sub-classes within the parking lots and vacant land class to differentiate between the following categories of parking facilities:

- municipally-owned parking lots;
- commuter parking lots;
- privately-owned parking lots.

The purpose of this proposal is to allow municipalities to tax the different lots at different rates.

Recommendation:

- It is recommended that Province not create parking lot sub-classes to distinguish between different categories of ownership or different types of parking lots.

Discussion:

A parking lot sub-class system would create added complexity in the property tax system. As well, taxing similar properties with similar uses at different rates based on differences in their ownership would be inconsistent with the general premise of the property tax system to classify properties based on

their use.

PIPELINES

Pipelines that are used for the transmission of oil and gas are assessed at rates prescribed by the Minister of Finance pursuant to section 25 of the *Assessment Act*. Different rates are prescribed for different sizes of pipe (based on diameter) and for different types of pipe (offshore, plastic, and others).

The assessment rate tables for pipelines have been developed through consultation with the pipeline owners and MPAC. The rates are intended to approximate the value of the pipeline. Updated rates have been established upon each reassessment.

During the consultations for this review, the natural gas sector proposed changes to the property tax treatment of pipelines. Industry representatives expressed concerns about the dramatic fluctuations of assessed values that have been contemplated upon each reassessment. Pipeline owners would like a property tax system that provides stability and predictability from one year to the next. With that objective in mind, the natural gas sector proposed that the method of taxing pipelines be changed from an assessment-based approach to a fixed tax rate approach.

The industry's proposal can be summarized as follows:

- In respect of **existing** pipelines, the pipeline owners would continue to provide municipalities with the same amount of money that they currently pay on pipelines in the municipality (annual lump sum payment).
- Any **new** pipelines that are built would be taxed at a fixed rate per linear foot based on the size of the pipe, with four different rates being prescribed based on the diameter of the pipe.
 - The rates would be consistent province-wide.
 - The rates would be calculated at the outset of the new program by dividing the total tax yield on existing pipelines by the total linear footage of existing pipelines.

Recommendation:

- It is recommended that the property tax treatment of oil and gas pipelines be changed from an assessment-based system to a prescribed tax rate system.

The following approach to calculating and applying tax rates is recommended.

- For each municipality, calculate the total property tax yield from pipelines (in the year preceding the first year of implementation of the new program) and calculate a tax rate which, when applied to the length of pipes in the municipality, would yield the same amount of

tax.

- These tax rates would be prescribed by the Minister of Finance for each municipality, further to discussions with MPAC and the pipeline industry.
- It is recommended that consideration be given to increasing the rates over time to reflect the rate of inflation. It is also recommended that consideration be given to the appropriateness of making downward adjustments to reflect the depreciation of the pipeline assets (recognizing that the assessments currently factor in an annual depreciation amount).
- To make this system operational, it would be necessary for pipeline owners to report on the location and length of their pipelines to the affected municipalities on an annual basis.
- As a long-term goal, it is recommended that the municipal-specific tax rates be gradually phased into consistent province-wide rates.
- It is recommended that the Ministry of Finance participate in an ongoing dialogue with pipeline owners and municipalities to ensure that this proposed new system is responsive to their needs.
- It is also recommended that gate stations, which regulate gas pressure and monitor gas flow and quality, be included in the commercial property class.

Discussion:

It is recognized that the proposed new system would necessitate the creation of numerous municipal tax rates. However, once the initial rates have been set, it is believed that this system would provide predictability and stability in the longer term. Phasing into consistent province-wide rates would facilitate greater equity and stability over time.

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