

## MGA Review Discussion Paper

# Taxation

*This technical document is part of a series of draft discussion papers created by Municipal Affairs staff and stakeholders to prepare for the Municipal Government Act Review. It does not reflect existing or potential Government of Alberta policy directions. This document is the result of a careful review of what is currently included in the Municipal Government Act (MGA) and regulations, definitions of terms and processes, changes requested by stakeholders over the last 18 years, some highlights from other jurisdictions, and identification of potential topics for discussion during the MGA Review. This information will be used to prepare consultation materials as the MGA Review proceeds.*

*These discussion papers have been reviewed and approved by the MGA Stakeholder Advisory Committee, comprised of representatives from major stakeholder organizations: Alberta Association of Municipal and Counties, Alberta Association of Urban Municipalities, Alberta Rural Municipal Administrators Association, Alberta Chambers of Commerce, City of Calgary, City of Edmonton, and Local Government Association of Alberta.*

*The Government of Alberta is asking all Albertans to directly contribute to the MGA Review during online consultation in late 2013 and consultation sessions throughout Alberta in early 2014. This technical document is not intended for gathering stakeholder feedback, but to generate thought and discussion to prepare for the upcoming consultation. Public engagement materials will be available in early 2014. To learn more about how you can join the discussion on how we can build better communities, please visit [mqareview.alberta.ca/get-involved](http://mqareview.alberta.ca/get-involved).*

## Preamble

The *Municipal Government Act (MGA)* provides the legislative framework to guide the operations of municipalities in Alberta. The current *MGA* empowers municipalities with the authority and flexibility to provide services in the best interests of the community. The *MGA* Review will proceed along three major themes: *governance and administration*; *assessment and taxation*; and *planning and development*.

This paper is one of 12 discussion papers exploring aspects related to the *assessment and taxation* theme. Property tax valuation systems should be designed to maximize equity among property taxpayers and visibility or openness, while minimizing administrative complexity and confusion<sup>1</sup>. Alberta's property assessment and taxation framework must be considered with the following principles in mind:

- Clarity
- Fairness
- Efficiency
- Predictability
- Stability
- Transparency

This paper focuses on market value assessment and administration as outlined in the *MGA* and its attendant regulations. Below is a list of the 12 papers that relate to the *assessment and taxation* theme.

- Market Value Assessment and Administration
- Linear Property Assessment
- Machinery and Equipment Assessment
- Farm Property Assessment
- Railway Property Assessment
- Airport Property Assessment
- Supplementary and Progressive Assessment
- Equalized Assessment
- Taxation
- Exemptions and Other Special Tax Treatment
- Assessment Complaints and Appeals
- Municipal Revenue Sources

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<sup>1</sup> International Association of Assessing Officers (IAAO). *Standard on Property Tax Policy*. Kansas City: IAAO, 2010.

## Taxation



This paper discusses various types of property taxation which Alberta municipalities may institute. Under the *MGA*, a municipality is responsible for collecting taxes for municipal and educational purposes. These forms of taxation are related to property and business interests. Municipalities are also responsible for recovering unpaid taxes, and they may use provisions under the current *MGA* to seize property for tax recovery purposes.

Property taxation, which is by and large the most significant source of municipal revenue, is calculated by applying a tax rate to a taxable property's assessed value to determine the taxes payable by the owner<sup>2</sup> of that property. Municipalities prepare property and business assessments and determine tax rates annually. Property taxes are used to fund local government services and programs fairly throughout a municipality.

Each year, municipal councils determine the amount of money they need to operate their municipality. From this amount, the council then subtracts known revenues (for example, licences, grants, and permits). The remainder is the amount of money the municipality needs to raise through taxes in order to provide services for the year. The municipal council is responsible for setting tax rates on the basis of the municipal assessment base, and determining which taxes to impose; for example, municipalities may choose or not choose to impose business taxes. Other taxes, such as well drilling equipment taxes, and various taxes related to improvements and services, are discretionarily imposed by bylaw.

Tax rates are expressed as percentage of assessed value at which each property is taxed in a municipality (historically known as a "mill rate"). Tax rates are determined on the basis of the assessment base divided by the municipalities' revenue requirements; however, tax rates may be different for residential and non-residential properties, as well as farmland. In addition to setting the tax rate, a municipal council is responsible for calculating the taxes payable, issuing a tax notice, collecting taxes, and enforcing tax debts.

Municipalities have the ability to impose the following taxes under the *MGA*:

- Property tax
- Business tax
- Business Revitalization Zone Tax
- Community Revitalization Levy<sup>3</sup>
- Special Tax
- Well Drilling Equipment Tax
- Local improvement tax
- Community aggregate payment levy<sup>4</sup>

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<sup>2</sup> In some cases, a leaseholder, a license holder or a property operator is liable for taxation. However, for the purposes of this paper, all references are to 'owner'.

<sup>3</sup> Community revitalization levies are discussed in *Fees and Levies*.

<sup>4</sup> Community aggregate payment levies are discussed in *Fees and Levies*.

## Discussion Points

Below are some discussion topics and questions identified through a review of requested amendments, cross jurisdictional research and issues raised by stakeholders.

### 1. Business Taxes

#### *Background*

Under the *MGA*, municipalities have the ability to impose a business tax on business operating within the municipality. This tax is separate from the municipal property tax. Currently, there are only 2 municipalities (Edmonton and Calgary) that impose a business tax. Both municipalities are phasing out business tax and collecting the revenue through the non-residential property tax base. A comprehensive review of business tax has not occurred since the *MGA* was enacted in 1995.

#### *Cross-jurisdictional Research*

- In British Columbia, business tax was abolished for all municipalities except Vancouver. In Manitoba, municipalities may levy a business tax on the rental value of business properties at a rate not exceeding 15%.

#### *Stakeholder and Legislative Amendment Requests*

- Some municipal and business stakeholders have requested the removal of business tax provisions from the *MGA*.

### 2. Well Drilling Equipment Tax

#### *Background*

Currently, municipalities have the ability to pass a well drilling equipment tax (WDET) bylaw that imposes a tax on oil and gas drilling equipment operating in the municipality. This tax is intended to help municipalities offset the cost for repairing roads damaged by oil and gas drilling equipment.

In early 2013, a stakeholder advisory committee was established to review the WDET, however, consensus could not be reached on the future of the WDET. The committee agreed that a long-term solution should be developed in concert with the *MGA* Review.

#### *Stakeholder and Legislative Amendment Requests*

- Some industry stakeholders have asked the Province to review the well drilling equipment tax believing that it is an unfair tax targeted on the oil and gas sector and not on other industries using municipal roads.
- Some industry stakeholders have expressed concerns that the WDET and road use agreements create double taxation. They believe both these taxes add additional layers to the property taxes already collected on oil and gas wells.
- A municipal association feels the WDET does not fully compensate all municipalities for the wear and tear on roads caused by other industries.

### 3. Linking Residential and Non-residential tax rates

#### *Background*

In Alberta, prior to 1995, the differential between residential and non-residential municipal tax rates was legislated under the *Municipal Taxation Act*. At that time, the residential tax rate could not be less than 75% of the non-residential tax rate. When the MGA was introduced, this provision was removed. In recent years, the differential between the two rates (e.g. one municipality's non-residential tax rate is three times their residential tax rate) has caused many non-residential property owners to express concern that they are paying an unreasonably higher proportion of municipal taxes than residential property owners.

#### *Cross-jurisdictional Research*

- Most provinces in Canada link residential and non-residential tax rates:
  - In Ontario, all municipalities must adopt a bylaw that set the tax ratios for each class of property. All property tax rates are compared to the residential tax rate. The Province has set "allowable ranges of fairness" as set by regulation for tax ratios.
  - In New Brunswick, municipalities set a rate on residential property and the rate on non-residential property must be 1.5 times the rate on residential property.
  - In BC, there are nine property classes, and property tax rates may vary among them. However, tax rates may be limited by regulation, such as caps on utility property tax rates. Municipal incorporation documents may also limit tax rates.

#### *Stakeholder and Legislative Amendment Requests*

- Industry associations have requested that the Province link the non-residential tax rate to the residential tax rate to prevent significant differentials.
- Some industry stakeholders have suggested that the non-residential tax rate should not be more than 2 times the residential tax rate.

### 4. Split tax rates

#### *Background*

In Alberta, there are 4 property classes that can be assigned to a property: residential, non-residential, farm land and machinery and equipment. Property classes are assigned to each property type in order for a municipal council to set the appropriate tax rate. However, the tax rate for machinery and equipment and non-residential property must be the same. Currently under the MGA, a municipal council may divide the residential class into sub-classes in any manner it consider appropriate. This process allows a municipal council to set a separate tax rate for different types of residential properties; for example, setting a different tax rate for a single family home versus an apartment complex. Legislation does not provide the ability to levy a separate tax rate for different types of improved non-residential property; for example, a different tax rate for major industrial properties versus local small businesses.

#### *Cross-jurisdictional Research*

- In British Columbia, non-residential property is divided into these classes: utilities, major industry, light industry, business and other, managed forest land, recreational/non-profit

and farm but the tax rates must adhere to the ratios between property classes rates stipulated in the legislation.

- In Saskatchewan, municipalities (apart from cities), do not have the authority to create property subclasses for tax purposes. Cities may establish various classes and sub classes of property. Council may then set tax rates for each class of property.

#### *Stakeholder and Legislative Amendment Requests*

- Municipal stakeholders, including municipal associations, have requested the ability to split the non-residential tax rate.
- Industry stakeholders do not support this amendment as they are concerned that split non-residential tax rates would be unfair to high value industrial properties that would ultimately be taxed at a higher rate.

### 5. Tax Recovery

#### *Background*

Municipalities rely on the collection of property taxes to provide services, to make improvements to their infrastructure and to meet their financial obligations as well as to pay the education tax requisition. It is important to recognize that the purpose of the tax recovery process is to provide a means through which a municipality can receive the taxes it is entitled. The MGA recognizes municipalities' reliance on property tax revenue and it ensures the municipality can collect the taxes that are due through the tax recovery process. This process allows a municipality to sell property that is in property tax arrears; however in some instances a municipality could become liable for any unknown issues arising from the property (e.g. contaminated lands<sup>5</sup>).

#### *Cross-jurisdictional Research*

- Most provinces in Canada provide for a similar process to Alberta's tax recovery process:
  - British Columbia shares a similar process to that of Alberta whereby municipalities may recover unpaid taxes through the sale of property at a public auction.
  - Ontario also employs a similar process for the recovery of unpaid taxes.

#### *Stakeholder and Legislative Amendment Requests*

- Municipal stakeholders have requested a provision that limits their liability on contaminated lands entered into the tax recovery process.
- Municipal stakeholders have expressed concerns that there are no provisions specific to linear property in relation to tax arrears and tax recovery. They have requested that tax recovery provisions related to linear property be added to the MGA.
- Some municipal stakeholders have requested minimum reserves placed on properties entered into the tax recovery process.

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<sup>5</sup> Municipalities may choose not to enter contaminated lands into the tax recovery process.

## 6. Tax Agreements

### *Background*

Under the *MGA*, a municipality may make a tax agreement with an owner of a public utility or linear property who occupies municipal property. A tax agreement is made instead of paying the municipal taxes that would otherwise be required. Municipalities and industry property owners opt for this agreement for greater predictability and consistency in revenue and expenses, respectively. Tax agreements must not be used as a tax incentive or form of tax exemption as this may violate the inter-provincial agreement on trade.

### *Stakeholder and Legislative Amendment Requests*

- Some municipalities and tax payers have requested clearer legislation and more education on tax agreements.
- Some municipalities have requested greater scope of who they can enter into a tax agreement with (e.g. arenas and stadiums)

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## Discussion Questions



1. Should business tax be removed as an option for municipalities to impose? Why or why not?
2. Is the well drilling equipment tax (WDET) still appropriate? Why or why not?
  - a. Should the WDET be expanded to include other industries? Why or why not?
  - b. Should a municipality be limited to impose either the WDET or a road use agreement but not both? Why or why not?
3. Should tax rates among residential and non-residential property be linked or related by some factor or ratio? Why or why not?
  - a. If so, at what factor or ratio should they be linked?
4. Should municipalities be able to apply separate tax rates (i.e. split mill rates) to different types of non-residential property? Why or why not?
5. Do any areas of the tax recovery process need revision (e.g. tax recovery for contaminated lands, linear property)? If so, which areas?
6. Should any new provisions be considered to assist municipalities in the recovery of unpaid taxes? If so, which provisions?
7. Should the scope of tax agreements be expanded to include other property types? Why or why not?
  - a. If so, which types of property?
  - b. Should any new provisions be considered to assist municipalities and tax payers in making tax agreements? If so, what provisions?