

MGA Review Discussion Paper

Exemptions and Other Special Tax Treatment

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.

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 confusion¹. 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

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

Exemptions and Other Special Tax Treatment



Under the Alberta property assessment and taxation system, real property is subject to municipal assessment and taxation. However, some property is exempt.² The practice of exempting property is worldwide: “every nation provides exemptions from property tax. Typical exemptions include property owned or used by organizations providing services related to government, education, charity, religion, culture, and historic preservation.”³ It’s important to note that for every exemption granted under the *MGA* and attendant regulations, municipalities still require that tax revenue from other taxpayers to provide necessary services to those properties. .

Property assessment and tax exemptions in Alberta can be organized into these general categories:

- **Constitutional** – for example, municipalities cannot levy taxes on federal government property.
- **Traditional** – for example, places of worship, such as churches, temples, mosques, and also cemeteries are tax exempt.
- **Public or quasi-public organizations** – for example, hospital property, education property, libraries, nursing homes, agricultural societies, non-profit organizations and other organizations which are funded by government, or receive grants.
- **Public Infrastructure** – for example, roads, bridges and monuments.
- **Ability to pay** – for example, youth hostels, and veterans’ associations.
- **Business incentives** – for example, machinery and equipment is not subject to education taxation. These kinds of exemptions are designed to encourage economic development.⁴

There are also other types of special treatment for the assessment and taxation of properties. Some properties receive special treatment through partial or no assessment and regulated depreciation. The types of properties that receive special assessment and tax treatment include:

- the 77% assessment on machinery and equipment;
- accelerated depreciation for linear and machinery and equipment properties;
- partial assessment on farm residences;
- exemptions on linear property used for farming operations; and
- exemptions on linear property used for rural gas cooperatives.

² Property tax exemptions are achieved in two ways. The first way is through assessment exemptions. In these cases, properties which are exempt are not assessed. The second way is through taxation exemptions. In these cases, although properties are assessed, they are not tax liable.

³ International Association of Assessing Officers, Assessment Administration (Chicago: International Association of Assessing Officers, 2003).

⁴ Business incentive exemptions are by and large discussed in the *Machinery and Equipment* discussion paper.

The table below outlines the various assessment and tax exemptions that apply to specific property type.

Table 1: Property Types with Exemptions and Special Tax Treatment

Property Type	Exempt from Assessment	Partially Exempt from Assessment	Regulated assessment based on productivity	Exempt from municipal tax	Exempt from education tax	Accelerated Depreciation
Municipal infrastructure ⁵	✓	✓		✓	✓	
Federal and Provincial Government property		✓		✓	✓	
Non-profit property				✓		
Machinery and equipment		✓			✓	✓
Linear Electric Power Generation					✓	
Linear property used in farming operations	✓			✓		
Linear property used by rural gas cooperatives	✓			✓		
Property owned by rural electrification associations	✓			✓		
Farm residences in urban areas		✓				
Farm residences in rural areas		✓				
Airport runways, taxiways and aprons	✓			✓		

⁵ Roads, bridges, canals, sewage treatment facilities, etc.

Municipal Role in Determining Exemptions for Non-Profit Organizations

Exemptions are generally relative to ownership and use of a property. The *MGA* and attendant regulations clarify when property held by a non-profit organization is used for a public benefit, and is thereby eligible for a tax exemption.

Over time the concept of exempting those organizations which provide a public benefit has been embraced at the community level. However, varying interpretations of the meaning of “public benefit” by municipalities, and by assessment review boards under the assessment complaints system⁶ has resulted in inconsistencies in property tax exemptions across Alberta. For example, a non-profit organization may operate in two different municipalities and be tax exempt in one of those municipalities, but not the other.

In 1997, the provincial government attempted to respond to these inconsistencies by forming the Non-profit Tax Exemption MLA Review Committee. One outcome of the committee’s review was a set of principles and a process that could be applied by municipalities in considering the eligibility of non-profit organizations for property tax exemptions. This process was implemented, but the desired result of more province-wide consistency was not achieved to the degree that was anticipated. A comprehensive review of property assessment and tax exemptions has not occurred since the committee’s review.

However, some differences from municipality to municipality in the handling of tax exemption matters are regarded as desirable and important to the local autonomy of municipal councils. In this regard, the *MGA* allows municipalities to enact bylaws to provide further exemptions to organizations such as a for-profit care facility. Municipalities also have the discretion to make certain types of tax-exempt properties taxable (hostels, student dormitories, properties held by veterans’ organizations, and property owned by Ducks Unlimited).

⁶ Discussed in the paper *Assessment Complaints and Appeals*.

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. Property Assessment and Tax Exemptions

Background

The *MGA* lists all of the types of assessment and taxation exemptions. Assessment exemptions (i.e. non-assessable property) are provided for those properties where municipal tax dollars have been used to pay for, typically municipal infrastructure (roads, bridges, etc.).

Some assessment exemptions include:

- sewage conveyance and disposal systems;
- Dams, water supply, irrigation and water control devices and systems;
- roads and weigh scales;
- property owned by the Province or Canada, and national and provincial parks;
- linear property used for farming operations;
- rural gas distribution systems;
- certain property improvements owned by regional airport authorities;
- partial assessment on machinery and equipment;
- travel trailers that are not connected to utility services or attached to any structure; and
- rural electrification associations.

The *MGA*, regulations and government policy also specify some types of property that are assessed, but exempt from taxation. After preparation of the assessment, taxation exemptions are provided for those properties that provide a public benefit.

Some taxation exemptions include:

- school and post-secondary institution property used for educational purposes;
- hospital and health region property used for health and hospital purposes;
- property owned by regional services commissions;
- nursing home property;
- library property;
- property held by a religious body, used for religious or religious education purposes; and
- qualifying property held by non-profit organizations;
- community leagues and residents associations; and
- Zero education tax rate on machinery and equipment.

Cross-jurisdictional Research

- The types of tax exemptions across Canada are similar from province to province.
 - In British Columbia, hospitals, school and public libraries are exempt from taxation. Also, municipalities may, on a case-by-case basis, provide exemptions on land around places of worship, parks, charitable or not-for-profit corporations that provide a public service.
 - In Ontario, municipalities may provide exemptions by bylaw in very specific circumstances, such as for religious organizations, and for military and veterans societies. These exemptions are made by councils.
 - In New Brunswick, the properties exempted are similar to other provinces and territories, and include properties such as public and Crown properties, educational and religious institutions, and not-for-profits under specific circumstances.

Stakeholder and Legislative Amendment Requests

- Some stakeholders have requested a review of the property tax exemptions to ensure relevancy in today's municipal environment.
- Municipal associations have requested that the Province establish a property tax exemption policy which ensures that all legislative provisions for assessment or property tax exemptions receive a periodic review to guarantee that they continue to provide benefits to the citizens of Alberta.
- Municipal stakeholders have requested the Province review the existing linear property exemptions for farming operations, rural gas cooperative and rural electrification associations. They believe the current policy behind the exemption is out of date and need updating.
- Several of the requested legislative amendments relate to the clarity of property exemption definitions under the *MGA*, and clarity as to whether certain types of property should be exempt. Some of these include:
 - A municipal stakeholder has requested the Province to clarify that oil sands excavation equipment (e.g. trucks and shovels) is assessable. Currently, some municipalities are not assessing this equipment as a result of inconsistent interpretation of legislation.
 - Municipal and non-profit stakeholders have asked for clarification on administrative processes (for example, matters related to application dates and notification of exemption status to property owners).
 - Municipal and taxpayer stakeholders have requested additional clarification on the assessment and tax exemption status of travel trailers.

2. Non-Profit Organizations and Public Benefits

Background

Not all properties owned by non-profit organizations receive a property tax exemption; these organizations must meet qualification requirements in the current *MGA*, and as further refined in the *Community Organization Property Tax Exemption Regulation (COPTER)*. Under this regulation, exemptions are based on confirmation that the use of the property aligns with the following general principles:

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

A comprehensive review of property assessment and tax exemptions under the *MGA* and *COPTER* has not occurred since 1997.

Cross-jurisdictional Research

- In Ontario, land owned, used and occupied solely by a non-profit philanthropic, religious or educational seminary is exempt from taxation.
- In Nova Scotia, there is an exemption for all land in excess of three acres owned by any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution, excluding any buildings or structures thereon, used directly and solely for the purposes of that organization or institution.

Stakeholder and Legislative Amendment Requests

- Several of the requested legislative amendments relate to clarifying property exemption definitions under the *MGA*. For example:
 - Municipal stakeholders have requested that the term “held by” be further defined in relation to property being used by non-profit organizations to enhance consistency in the application of exemptions. They believe the current wording is confusing when applying exemptions to properties held under lease.
 - Municipal stakeholders have requested the ability to tax for profit businesses held in non-profit or public institutions.
 - Municipal and taxpayer stakeholders have requested greater clarity and consistency in the application of exemptions for seniors’ facilities.

Discussion Questions

1. What principles should be the foundation of Alberta's assessment and property tax exemption policy? (e.g. Public benefit, charitable and benevolent works, etc.)?
 - a. What types of properties should be exempt from assessment?
 - b. What type of properties or organizations should be exempt from property tax?
2. Does the current legislative framework (MGA and COPTER) for property tax exemptions work? Why or why not?
 - a. How should the exemptions framework be structured?
3. What provisions should be made to ensure transparency in the application of assessment and taxation exemptions?
4. Are there processes that require updating in regards to assessment and property tax exemptions (e.g. application dates)? Why?
5. How can the province ensure that assessment and tax exemptions are still valid (e.g. mandatory periodic review for relevancy)?