Municipal tax incentives

The *Municipal Government (Property Tax Incentives) Amendment Act* was introduced on June 4, 2019. The legislation amends the *Municipal Government Act*, allowing municipalities to offer tax incentives for non-residential properties to help attract investments and provide longer-term certainty for businesses.

Municipalities have an important role to play in contributing to the economic success of the province and their communities. These changes give municipalities the ability to be creative when attracting new investments and empower them to make decisions on how they apply property tax incentives.

The incentives are another tool municipalities could use to help foster the conditions that enable businesses to compete for global investment and contribute to the growth of jobs and prosperity.

What does this legislation enable municipalities to do?

The amendments enable municipalities to offer multi-year tax exemptions, reductions or deferrals for non-residential properties in order to attract investment, development and revitalization. Municipal councils are able to pass bylaws establishing tax incentive programs. Property owners, or prospective property owners, will apply to the municipality.

How is this different from what municipalities could do before?

In the past, municipalities could cancel or refund all or a portion of a property tax, or defer the collection of a tax in a specific year for the purposes of providing relief in instances of hardship. Municipalities could also provide multi-year tax incentives to encourage redevelopment of brownfield properties. This legislation expands the existing authority to include broader economic development purposes.

What are the potential benefits to municipalities?

Many municipalities are struggling to attract business and boost economic development and revitalization. Tax incentives lower the financial burden on businesses and help municipalities attract investment. It also helps municipalities create incentives for businesses, and compete with other communities across Canada and the United States, where similar incentives are already available.

Are there potential regional benefits?

This additional flexibility has the potential to encourage regional economic development. Municipalities should discuss with neighbours how best to use this new authority to create benefits for the region. Alberta Economic Development, Trade and Tourism provides regional economic development support and resources and encourages collaborative approaches with interested municipalities.

What about municipalities that already offer these types of incentives?

In rare circumstances, some Alberta municipalities may have used tax cancellation, reduction, and deferral authorities to offer incentive programs. These municipalities would need to pass new bylaws under the new legislation to ensure their programs are in alignment.

How would these programs work with existing trade agreements?

Any non-residential property that meets the criteria and conditions outlined in the bylaw will be eligible to apply for a tax incentive – this gives all property owners equal opportunity to receive a tax incentive, and prevents discrimination against businesses from other provinces. British Columbia and Saskatchewan both provide similar tax incentive programs.

Does the legislation apply to all assessment classes?

No. Residential, farm land and machinery and equipment classes are not eligible under the legislation. Other mechanisms are in place to incent residential development, and farm land assessment is set significantly lower than all other assessment classes. In addition, the machinery and equipment assessment class already receives a 23 per cent incentive through reductions in assessed value and is exempted from education property tax.

Would these incentives be used for existing businesses?

The legislation allows that decision to be made by local councils. Councils would also have the flexibility to determine the types of development or industries that are eligible for incentives.

Can incentives be renewed after they have expired?

It would be up to council to determine how long a tax incentive will apply to a particular property. Tax incentives can be for no more than 15 years; however, council has the authority to determine how and when incentives can be renewed.

What if the land subject to a tax exemption/deferral is annexed?

If land that is subject to a tax exemption or deferral in one jurisdiction is annexed by another municipality, the annexation order must require the receiving municipality to continue the exemption/deferral.

Can municipal tax incentives be appealed?

Municipalities are able to designate decisions on applications to municipal staff. These decisions could be appealed to council. Decisions could also be judicially reviewed, with a shortened timeline of 60 days to provide property owners and municipalities with quick resolution of any disputes. Assessment review boards have no jurisdiction to deal with a complaint regarding a tax incentive.

What if the non-residential tax incentive bylaw is amended/repealed?

The incentive would remain valid even if the bylaw under which it was granted is subsequently amended, repealed, or otherwise ceases to have effect.

Implementation:

1. Create a non-residential tax incentive bylaw and application process

The bylaw must:

- Set eligibility criteria.
- Establish an application process.
- Set a maximum number of years for which incentives can apply (no more than 15 consecutive years, barring renewal).
- Establish a process and timelines for council review of decisions regarding the granting, cancellation, or refusal of tax incentives if the bylaw provides for a person other than council to make those decisions.

2. Grant incentives

The incentive must be granted in written form that specifies:

- The taxation years the incentive applies, which would not include any year prior to the year the incentive is granted.
- The extent of the incentive: deferral, exemption, partial exemption, etc.
- Any conditions that if breached would result in the cancellation of the incentive, and the years the conditions apply.

An exemption/deferral must be noted on the assessment roll prepared by the municipality. The notation must include the amount deferred and the taxation year(s) to which the amount relates.

3. Refusals/cancellations of the incentive

- If it is determined the property did not meet or ceases to meet a criteria of the bylaw or a condition has been breached, the municipality may cancel the incentive for the year(s) the criteria was not met or the condition breached.
- Refusals or cancellations of the incentive must be sent in a written notice to the applicant.
- The written notice must state the reason(s) for refusal/cancellation, the process for review by council (if the decision is made by any person other than council), and the date an application for review must be made by.

4. Notifying the provincial assessor

- If an incentive is provided or cancelled by the municipality in respect of a designated industrial property, the municipality must notify the provincial assessor and provide any other information requested by the provincial assessor regarding the incentive or cancellation of the incentive.