

OPTIONS TO EXTEND PENALTIES FORGIVENESS TO SMALL BUSINESSES

RECOMMENDATION

That the September 28, 2022, Financial and Corporate Services report FCS01334, be received for information.

Requested Council Action	Information only		
ConnectEdmonton's Guiding Principle	ConnectEdmonton Strategic Goals		
CONNECTED This unifies our work to achieve our strategic goals.	Regional Prosperity		
City Plan Values	THRIVE.		
City Plan Big City Move(s)	N/A	Relationship to Council's Strategic Priorities	Economic Growth
Corporate Business Plan	Serving Edmontonians		
Council Policy, Program or Project Relationships	<ul style="list-style-type: none"> Policy C607A - Retroactive Municipal Tax Relief 		
Related Council Discussions	<ul style="list-style-type: none"> FCS01139 Review of Policy C607: Retroactive Municipal Tax Relief CR7139: Tax Forgiveness and Consequences 		

Previous Council/Committee Action

At the June 7/8/10/13, 2022, City Council meeting, the following motion was passed:

That Administration provide a report outlining the options to extend penalties forgiveness under section 1.2.3 of City Policy C607 - Retroactive Municipal Tax Relief to small businesses.

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Executive Summary

- Council has broad authority to provide relief from municipal taxes and penalties. Council Policy C607A - Retroactive Municipal Tax Relief guides that discretionary authority while providing the City Assessor with clear direction on retroactive tax relief.
- C607A supports limited tax relief when property owners are impacted by a City error, outlines the circumstances under which penalties can be forgiven and supports relief in certain circumstances when properties are damaged.
- This report considers options to extend tax penalty relief provided to small businesses, in addition to the existing provision for residential properties, in the event of death, serious illness and/or hospitalization of a property owner or immediate family member.

REPORT

Council Policy C607A - Retroactive Municipal Tax Relief provides a framework for the use of Council's discretionary power to grant retroactive municipal tax cancellations and refunds, and to ensure that requests for tax cancellations, reductions and refunds are dealt with in a fair and consistent manner. The policy also directs the City Assessor in the exercise of their delegated tax relief powers.

At the June 7/8/10/13, 2022 City Council meeting, Policy C607A was amended to improve clarity and increase some relief limits that can be approved by the City Assessor. In particular, the section pertaining to tax penalty relief due to the death, serious illness and/or hospitalization of the property owner or an immediate family member was amended to limit relief only to residential properties, but exclude properties where the taxpayer or assessed person is a corporation or where the taxpayer has tax arrears. The rationale for this change was that incorporation confers advantages and responsibilities beyond those of an unincorporated property owner.

In response to Council's direction, this report considers options to extend tax penalty relief provided under this section to small businesses, in addition to the existing provision for residential properties. Since Policy C607 was established in 2019, the City has not received any requests for non-residential penalty relief under this section, despite the eligibility of non-residential properties prior to the recent amendment.

The term "small business" is difficult to define. Innovation, Science and Economic Development Canada (ISED) defines "small business" as those with up to 99 paid employees. However in some contexts, the Government of Alberta and the City of Edmonton consider a "small business" as one that has up to 49 paid employees. These definitions are generally used for statistical reporting rather than policy or program administration.

Since definitions of small business apply to the business itself and not directly to any property owned by the business, these definitions may not be appropriate for the consideration of property tax relief. Moreover, these definitions typically do not encompass "indeterminate" businesses, which includes self-employed and contract workers. These indeterminate businesses

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may be more at risk of tax penalties due to illness or hospitalization than those that have employees.

Administration has developed two options to apply a form of penalty forgiveness for small businesses, if Council so chooses.

The first would be a definition of small business that could be incorporated into Policy C607A by adding the following wording at the end of Section 1.2.3:

Despite the above, sole proprietorships, partnerships and corporations that are closely held corporations that are owned by a single shareholder, or a group of shareholders that are all related family members, may qualify under this section for both residential and non-residential properties, but will be limited to a maximum forgiveness of \$1,000.00 and this section shall be read to apply to the death, hospitalization, or unexpected illness of a shareholder or an Immediate Family Member of the shareholders.

Administration would not recommend an amendment of this type that specifically defines small businesses, due to its need to contemplate scenarios of business ownership, as well as identify shareholders and relationships among shareholders. It would be time-consuming for Administration to verify whether a property qualifies for the relatively small amount of relief potentially available. Further, references to closely held corporations, shareholders and the like have the potential to create situations where the definition of small business does not match Council's original policy intent, because the ownership structure of a business does not necessarily reflect the size of the business. Some businesses with significant property assets and many employees may meet this definition of small business, while some businesses with little property and few employees may not.

The second, and simpler, option would be to apply this section to all property types as it was prior to the amendment, but cap the total amount of forgiveness available at \$1,000. Under the existing terms of this section and the City's current tax penalty structure, relief can only be provided for the first penalty applied after the tax payment deadline, which is calculated as five per cent of the outstanding balance. This would effectively mean that for any given property, the City Assessor would be authorized to cancel penalties associated with up to about \$950,000 of non-residential assessment or up to about \$2.9 million of residential assessment (based on 2022 tax rates), if the conditions under this section were met.

If Council chooses to use this approach, the first paragraph of section 1.2.3 could be deleted and replaced with the following:

Forgiveness of any of the Penalties in this section will only apply when documentation can be provided and will be limited to a maximum forgiveness of \$1,000.00.

This latter proposed amendment would extend penalty forgiveness to small businesses by way of broader language. Without references to specific business ownership types and property classifications, Administration would be provided with sufficient flexibility to forgive penalties for all types of businesses in the City, though due to the \$1,000 cap, potential benefits would be relatively more significant for smaller businesses.

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Budget/Financial Implications

The proposed amendments are not expected to result in a significant change in the amount of relief approved by the City Assessor.

All approved tax relief is applied directly to the property owner's tax account from a fund established for this purpose.

Legal Implications

Charter Bylaw 18652 Municipal Tax Relief Delegation delegates the authority to cancel, reduce or refund taxes or tax arrears to the City Assessor in accordance with City policy, which is expressed through Policy C607A.

Legally, corporations do not have families and are considered an independent entity. To adopt this type of forgiveness in the corporate setting requires looking at shareholders, directors or other senior management. Arriving at an administratively efficient definition of a small business that can be monitored is a significant challenge. While the options for policy amendments would capture this, it would be difficult to monitor. Other definitions looking at the number of employees or amount of revenue would lead to various issues about obtaining and tracking the information needed to enforce the requirements.

COMMUNITY INSIGHT

The City did undertake public engagement for this report and has not received direct feedback from the community regarding limitations on support through Policy C607A. Non-residential properties were eligible for penalty forgiveness in Policy C607 from its adoption in January 2019 to its update to C607A in June 2022. In that time, the City did not receive any requests for non-residential penalty relief under this section, suggesting perhaps an amendment to include businesses is not a high need from the community.

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Property taxes are paid directly by property owners and the revenues are used to fund municipal infrastructure and services. It is difficult to link property tax data with demographics, particularly for a policy such as C607A, which directly impacts few people. Administration does not record demographic information on property owners seeking tax relief. While all taxpayers ultimately pay for any tax relief provided for the few that qualify for it under Policy C607A, the impact on the overall tax rate is not significant.

In general, this Policy supports property owners who are impacted by a City error or by certain circumstances that prevent the use of their property. It is designed to address the relatively common situations where relief may be warranted, but it does not, and cannot, address all possible circumstances where Council may consider tax relief to be appropriate. While Policy C607A guides Council's discretionary tax relief powers, Council retains the ability to override the Policy and/or approve tax relief in other circumstances if it considers it equitable to do so. This means that if a property owner believes the policy is inequitable for any reason, they are able to request relief directly from Council.