

EXPLORE EDMONTON TAX FORGIVENESS OPTIONS

Recommendation

That the February 7, 2024, Financial and Corporate Services report FCS02219, be received for information.

Requested Action	Information only		
ConnectEdmonton's Guiding Principle	ConnectEdmonton Strategic Goals		
CONNECTED This unifies our work to achieve our strategic goals.	Urban Places		
City Plan Values	THRIVE.		
City Plan Big City Move(s)	Inclusive and compassionate	Relationship to Council's Strategic Priorities	Conditions for service success
Corporate Business Plan	Managing the corporation		
Council Policy, Program or Project Relationships	<ul style="list-style-type: none"> C607A - Retroactive Municipal Tax Relief 		
Related Council Discussions	<ul style="list-style-type: none"> N/A 		

Previous Council/Committee Action

At the November 1, 2023, Executive Committee meeting the following motion was passed:

That Administration return to Committee with a report outlining the tax forgiveness options for taxes assessed to Explore Edmonton at 2011 94 St NW (account 10972146).

Executive Summary

- Explore Edmonton held a property under lease from the Government of Alberta which became taxable in 2021.

EXPLORE EDMONTON TAX FORGIVENESS OPTIONS

- Explore Edmonton has not made any tax payments for this property, which has resulted in an accumulation of a significant outstanding balance.
- Retroactive tax relief is guided by Council Policy C607A - Retroactive Municipal Tax Relief. The organization does not qualify for relief under this policy. However, Council has the authority to cancel or refund municipal taxes outside the policy if it so chooses.

REPORT

Beginning in 2008, Edmonton Economic Development Corporation (EEDC) held a lease from the Government of Alberta on a 73,000 square foot biotech research building known as the BioTech Centre in the Edmonton Research and Development Park. The Government of Alberta is exempt from taxation under section 362 of the *Municipal Government Act*. However, a lessee of a government-owned building becomes the Assessed Person for property taxation on the signing of the lease, meaning that their tax status applies and they are responsible for any taxes levied.

The BioTech Centre was exempted in error between 2008 and 2011. This decision was reviewed by the Exemptions Team and Legal Services in 2011 when a legal analysis concluded that EEDC was sufficiently independent to not be considered an agent of the City and the use of the property was restricted. This resulted in further review where it was acknowledged that the property was being subleased to other for-profit groups. In 2012, the City asked EEDC to provide information about the subtenants. As the Assessed Persons, taxable lease accounts were set up for the subtenants. Taxes were applied and paid by the subtenants under this arrangement until 2020.

In 2020, City Administration contacted both the Government of Alberta and Explore Edmonton (the inheritors of the lease from EEDC) to review lease and sublease information about the building. No information was provided, which meant the sublease accounts would expire and the primary lease account, now under Explore Edmonton, would be made taxable. While Explore Edmonton is a non-profit organization, the property itself was being leased to for-profit entities and would be unlikely to qualify for a tax exemption. Administration encouraged Explore Edmonton to apply for an exemption to allow the City to gain a full understanding of the property's use, but no application was received.

Since no further information was provided and no exemption application was filed, the property became taxable in 2021 with Explore Edmonton being the Assessed Person. Assessment and tax notices were mailed to Explore Edmonton's downtown office address in 2021 and 2022, but the taxes were not paid. Correspondence included: annual assessment notices indicating the taxable status; tax notices including the current account balance; and reminder notices that indicated the accumulating penalties.

In December 2022, Administration spoke with Explore Edmonton's Chief Financial Officer to highlight the outstanding tax amount. During that conversation, Explore Edmonton indicated they only became aware of the tax amount in fall 2022 and had assumed they were tax-exempt. Administration advised that non-profit organizations must apply to be considered for a tax exemption under provincial legislation, and that no application had been made. As well, Administration communicated an application would likely not have resulted in a tax exemption since the property was being subleased to for-profit businesses at market rates. Explore

EXPLORE EDMONTON TAX FORGIVENESS OPTIONS

Edmonton transferred its lease to another party in April 2023, but is still responsible for the outstanding balance from 2021 and 2022, along with associated penalties.

In fall 2023, Explore Edmonton approached Council to have this outstanding tax balance cancelled. As of February 7, 2024, Explore Edmonton has an outstanding tax balance on this property of \$1,349,313.51 including penalties and arrears. Of this amount, \$771,884.05 are municipal taxes levied over the two years, and \$155,536.86 are the education taxes over that same period. The remaining \$421,892.60 relate to penalties and arrears accumulated between July 1, 2021 and February 1, 2024. The City has already remitted payment to the Government of Alberta for the owed education taxes.

Section 347 of the *Municipal Government Act* authorizes Council to cancel, refund or defer municipal taxes if they consider it equitable to do so. Council does not have the authority to forgive education tax amounts. In this context, tax cancellation could apply to a portion or all of the municipal tax amount as well as the penalties applied. A tax deferral approach could require the amount still be paid, but end the accumulation of penalties. Through motion, Council has the ability to cancel a portion or all the outstanding tax balance or to defer future penalties, allowing Explore Edmonton more time to determine a payback strategy.

Council Policy C607A - Retroactive Municipal Tax Relief is intended to guide Council in making decisions regarding municipal tax relief and to direct the City Assessor's delegated tax relief authorities. Though the policy does not support tax relief in this circumstance, Council has the authority to cancel or refund municipal taxes outside the policy.

Budget/Financial Implications

Cancelling outstanding municipal tax debt requires a funding source to cover the municipal funding shortfall. Administration has an established budget for tax losses that generally covers outstanding Assessment Review Board decisions and qualifying tax forgiveness requisitions. The cancellation of Explore Edmonton's municipal debt including penalties and arrears totals \$1,193,776.65. Approval of the tax cancellation could result in insufficient funding availability for other requests and Board decisions later in the year. An updated forecast for tax losses may be included in the 2024 Spring Supplemental Operating Budget Adjustment.

Legal Implications

Section 347 of the *Municipal Government Act* allows Council to cancel, reduce, refund or defer municipal taxes and arrears when it considers it equitable to do so. Policy C607A is intended to guide Council in its use of this authority, but Council can grant tax forgiveness beyond the policy if it wishes.

Community Insight

As this concern is related to a specific property, broad engagement was not conducted for this report. Administration has been in contact with Explore Edmonton regarding their property tax concerns.

EXPLORE EDMONTON TAX FORGIVENESS OPTIONS

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Property taxes are paid directly by property owners and assessed persons, and revenues are used to fund City infrastructure and services for all residents. It is difficult to link property tax data with demographics, particularly for a situation dealing with one property owner.

Administration is not able to record demographic information about property owners seeking tax relief. While all other taxpayers ultimately pay for any tax relief provided, the impact on the overall tax rate, should the tax forgiveness be approved, is minimal.