

Request for Retroactive Municipal Tax Refunds

Recommendation

That Executive Committee recommend to City Council:

That the refunds totaling \$70,684.60, as outlined in the April 8, 2019, Financial and Corporate Services report CR_6906, and any associated penalties, be approved.

Executive Summary

The following report provides information on properties that qualify for tax refunds under Council policy. All groups included on this list now qualify for property tax exemption and are requesting tax refunds or cancellations for previous years when their property was considered taxable.

Report

In 2018, three requests were received from non-profit or religious organizations for tax refunds for the period of time their facilities were under construction and not in use.

Section 362(1)(n) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 (MGA), and the Community Organization Property Tax Exemption Regulation, A.R. 281/98 (COPTER), require that property be “used” for an exempt purpose or they do not qualify for tax-exempt status.

On completion of the construction and the property being occupied and used for its intended purpose, Administration reviews the request for exemption to determine whether the property, in whole or in part, qualifies for tax-exempt status. If all legislative requirements are met (including occupation and use for the exempt purpose), tax-exempt status is granted from the month of application.

Policy

On January 22, 2019, City Council approved updated criteria for its Retroactive Municipal Tax Relief Policy. However, because these requests were received in 2018, Administration proposes applying the original Retroactive Rebate Policy C543. Both the original and updated policy are designed to guide City Council’s discretionary power to grant retroactive tax refunds for the construction period of properties that become exempt upon completion and to ensure that requests from non-profit

organizations asking for municipal tax refunds are dealt with in a consistent manner.

Under the original policy, the refund period commences the month building foundations are laid or the permitted renovations begin and extend for the period of construction in the current year and to a maximum of two previous years.

Under the updated policy, the refund period commences the month building foundations are laid or the permitted renovations are started, for the period of construction in the current year and to a maximum not exceeding 36 months.

Budget/Financial Implications

The first request is from Sant Nirankari Mission Canada Inc. for their property located at 9420 35 Avenue. Foundations were laid in September 2014 and the property became exempt starting in February 2018. Depending on whether the old or new policy is applied, the refund would extend to January 2016 or February 2015, respectively. Administration has recommended using the old policy for 2018 requests resulting in a refund of \$26,863.54. If the new policy is used, the refund would total \$39,354.41.

The second request is from the Imam Hussein Islamic Society (IHIS) for three properties located at 6571, 6569 and 6567 Gateway Boulevard. The group began work in May 2017 and were exempted in January 2018. Application of either policy results in a refund of \$13,243.28.

The third request is from the Mustard Seed Street Ministry Foundation for their property located at 10050 81 Avenue. Foundations were laid in December 2017 and the property became exempt starting in July 2018. Application of either policy results in a refund of \$3,689.68.

The final request is from the Edmonton Islamic Centre for their property located at 6504 137 Avenue. Permits were pulled in September 2015, but the property was not made taxable until 2017. This property has been the subject of enforcement action because work and occupancy was initiated without proper permits. However, as of March 1, 2019 the property has occupancy of the first and second floor, resulting in a 68 percent exemption status. Application of either policy results in a refund of \$26,888.10.

Legal Implications

Under section 347 of the MGA, City Council has the ability to cancel or refund part of a tax if it considers it equitable to do so. City Council may only do so with respect to a specific taxable property or business or a class of taxable properties or businesses.

Corporate Outcomes and Performance Management

2018 marked the first year that the five-year amount of tax cancellations outside Council policy exceeded the five-year amount provided within Council policy. On January 22, 2019, Council reviewed and updated its Retroactive Municipal Tax Rebate policy to better align with its vision for future rebate requests.

Corporate Outcome(s): The City of Edmonton has a resilient financial position			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Ensure transparent and reasonable tax policy	5-year total of Council- approved tax cancellations and refunds	Under City Policy C543: \$513,905.08 (2014-2018) Ad-hoc requests from non-profit organizations: \$810,247.05 (2014-2018) Private property owners: \$0.00 (2014-2018)	N/A
	5-year average value of Council- approved tax cancellations and refunds	Under City Policy C543: \$102,781.02 (2014-2018) Ad-hoc requests from non-profit organizations: \$162,049.41 (2014-2018) Private property owners: \$0.00 (2014-2018)	
Ensure transparent and reasonable tax policy	5-year total of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$756,166.76 (2014-2018) Private property owners: \$0.00 (2014-2018)	N/A
	5-year average value of Council- approved tax deferrals	Ad-hoc requests from non-profit organizations: \$151,233.35 (2014-2018) Private property owners: \$0.00 (2014-2018)	

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Ensure transparent and reasonable tax policy.	Past year's taxes forgone as a result of Council exemption decisions.	Council has approved 5 ongoing municipal tax exemptions for non-profit organizations through Bylaw 12408. In 2018, these tax exemptions shifted \$258,044.22 in property tax burden to the remaining non-residential base.	N/A
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Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Commercial	Tax refunds will shift the tax burden onto remaining taxpayers	5	1	5	Council could choose not to approve the request	A refund will be absorbed by the remaining tax base, but will put pressure on tax increases.
Legal/Regulatory	The City runs the risk of additional groups requesting similar consideration	3	1	3	This risk is mitigated by the existence of Council policy.	Council ultimately has the authority to approve or deny subsequent requests.
Legal/Regulatory	The City would be out of step with provincial legislation if an independent policy is created	5	1	5	This will only occur if Council approves tax exemption or cancellation	The City could work with the GOA to develop policy parity.

Attachments

1. Non-Profit Tax Rebate Requests

Others Reviewing this Report

- B Andriachuk, City Solicitor