

# 2018 Requests for Tax Adjustments and Rebates

## Recommendation

That Executive Committee recommend to City Council:

1. That the municipal tax adjustments and rebates totalling \$10,469.60, for the tax accounts identified in Attachment 2 of the April 8, 2019, Financial and Corporate Services report CR\_6907, and any associated penalties, be approved.
2. That Attachments 3, 4, 5 and 6 of the April 8, 2019, Financial and Corporate Services report CR\_6907, remain private pursuant to section 17 (disclosure harmful to personal privacy) of the *Freedom of Information and Protection of Privacy Act*.

## Executive Summary

This report outlines all outstanding requests for tax adjustments or rebates for the 2018 tax year. Council's policy on these matters was updated on January 22, 2019. In order to maintain a consistent approach, Administration recommends the 2018 requests be approved based on the previous policy. Requests received in 2019 will be processed under the updated policy. Non-compliant requests are also shown. Neither the old or new policy recommend relief for these accounts.

Attachments 3-6 are being held in private, pursuant to section 17(1) of the *Freedom of Information and Protection of Privacy Act* because they contain personal information of the property owners.

## Report

### Background

In the mid 1990s, Council approved a policy known as the Tax Adjustment and Rebate Criteria (Attachment 1). This allowed Administration to independently review and, if warranted, approve tax adjustments and rebates to property owners where an error in fact was discovered that resulted in an inaccurate assessment value and an overpayment in taxes, potentially over multiple years. The City Assessor could also independently consider cases where buildings were destroyed by fire, acts of god, or were voluntarily demolished. For those qualifying accounts, Administration applied adjustments to the tax account of the current owner for the current tax year and up to

two previous years. The Tax Adjustment and Rebate Criteria was later amended, in 1998, to also allow for tax penalty cancellation in specific cases.

The intent of this policy was to redirect small and routine requests for tax forgiveness from Council's agenda and allow Administration to render a decision on these requests. However, with the enactment of the City of Edmonton Charter, Council was required to explicitly delegate this authority to Administration by bylaw. The relevant delegation bylaw was passed on February 25, 2019, but these requests were received prior to that change. For this reason, these requests are still being presented to City Council for approval.

During this transition period, there is also a question of which tax rebate policy to use. On January 22, 2019, Council reviewed and updated its rebate policy, now called the Retroactive Municipal Tax Relief policy. In order to maintain a consistent approach, Administration recommends the 2018 requests be approved based on the previous policy. Requests received in 2019 will be processed under the updated policy.

Attachment 2 identifies requests that fall within the Tax Adjustment and Rebate Criteria. A short description of each is included below:

### Error of Fact

**10003845** - This is a residential account that had a size error within the City system that was detected in 2018. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$243.63 based on the corrected assessment value for 2016 and 2017.

**8405805** - This is a residential account that incorrectly included a garage suite. A data correction was made in 2018 after an internal inspection confirmed the lack of suite. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$312.34 based on the corrected assessment value for 2017.

**10135945** - This is a non-residential account that had a size error on the upper floors. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$1,963.74 based on the corrected assessment value for 2017.

**9997099** - This is a residential account that was assessed as complete. An interior inspection in 2018 revealed the property was still under construction. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$1,384.45 based on the corrected assessment value for 2016 and 2017.

**7085715** - This is a residential account that incorrectly had a renovation code applied. A January 18, 2018 inspection revealed no renovations had taken place and the code was removed. Based on the Tax Adjustment and Rebate Criteria, this account qualifies

for a tax adjustment of \$590.11 based on the corrected assessment value for 2016 and 2017.

**1295641** - This is a residential account that had a number of factual errors. An interior inspection was completed on March 2, 2018 and adjustments were made to the building size and type while a fireplace was removed. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$408.64 based on the corrected assessment value for 2016 and 2017.

### Fire Damage or Destruction

**8304404** - This is a residential property damaged in a fire on January 12, 2018. An interior inspection confirmed the property was still being reconstructed at year-end. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$1,710.70 based on the 2018 adjusted assessment value.

**8604308** - This is a residential property damaged in a fire on July 27, 2018 and subsequently demolished. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$51.65 based on the 2018 adjusted assessment value.

**1997709** - This is a residential property damaged in a fire on July 31, 2018. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$295.71 based on the 2018 adjusted assessment value.

**10084325** - This is a residential property that was destroyed in a fire on April 15, 2018. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$1,037.17 based on the 2018 adjusted assessment value.

**10034214** - This is a residential property that was destroyed in a fire on May 30, 2018. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for a tax adjustment of \$992.49 based on the 2018 adjusted assessment value.

### Demolition and Site Cleared

**3711504/3711405** - These are two neighbouring residential accounts (other residential tax class), owned by the same property owner, that were voluntarily demolished and cleared in January, 2018. No new construction occurred in 2018. Based on the Tax Adjustment and Rebate Criteria, these accounts qualify for a tax adjustment of \$493.31 and \$806.94 respectively.

### Penalty Forgiveness

**9232547** - This is a residential account requesting penalty forgiveness for late payment of taxes in 2018. Non-payment was the result of hospitalization during the payment

period. Based on the Tax Adjustment and Rebate Criteria, this account qualifies for \$178.73 in penalty forgiveness.

### Requests Outside Policy

The following are requests that fall outside Council Tax Adjustment and Rebate Criteria and do not qualify for tax rebate. It should also be noted that these requests would also not qualify under the new Retroactive Municipal Tax Relief Policy.

**3574100** - This is a non-residential account in the former Bank of Montreal downtown location (10199 101 Street). Between December 2017 and April 2018, work was undertaken to demolish portions of the building. The property owner is requesting a tax adjustment based on the land value without an improvement from May-December. Such an adjustment would result in a rebate of \$123,124.89. The property owner also raises valuation matters, but these are more suitably addressed through the assessment process. An assessment complaint was not filed in 2018 and the legislated window for assessment adjustments in that year has closed.

The Tax Adjustment and Rebate Criteria require the site to be fully demolished and cleared in order to qualify for an adjustment. Buildings in the process of being renovated also do not qualify for a rebate under the criteria.

The above-ground portion of the building was demolished with the building's basement remaining intact. The site would also not be considered cleared as some rubble and pilings remain exposed on the site. Finally, the property is in the midst of redevelopment. Based on this information, the property would not qualify for a tax adjustment.

The property owner has submitted a letter requesting Council consideration (Attachment 3).

**2022036** - This is a residential account requesting penalty forgiveness of \$211.30 for late payment of taxes in 2018. A property owner was on a payment plan, but due to a title change following the death of an immediate family member, the monthly payment plan was cancelled by the City. The City advised the property owner of the cancellation, but the property owner's application to continue on the payment plan was not properly completed. The application was not processed, and a penalty was applied on July 1.

While the account is now correctly enrolled in the monthly payment plan, the property owner is seeking the penalty cancellation. The property owner's letter is attached (Attachment 4). The property does not qualify for penalty cancellation as the death did

not take place during the payment period and the property owner was aware of the need to update the monthly payment information.

**8006207** - This is a residential account requesting penalty forgiveness of \$150.94 for late payment of taxes in 2018. Payment was received on July 5, 2018, but a representative of the property owner requested forgiveness due to the death of an immediate family member the year previous as well as the property owner's health complications.

The Tax Adjustment and Rebate Criteria has traditionally reserved penalty forgiveness for health issues that arise near the tax deadline and are of a serious and life-threatening nature. The associated health issues took place several months before the tax deadline and did not qualify under the Tax Adjustment and Rebate Criteria.

The agent for the property owner directed that the owner's e-mail (Attachment 5) be considered the official request to the City of Edmonton. It should be noted that the e-mail expresses a number of misunderstandings. The Tax Adjustment and Rebate Criteria have consistently been interpreted as death or serious illness that resulted in hospitalization during the payment period.

**10784701** - This is a residential account requesting penalty forgiveness of \$287.46 for late payment of taxes in 2018. The property owner's official request is attached (Attachment 6).

In summary, the property owner believed the assessment value was incorrect and filed a complaint with the Assessment Review Board. The hearing date was scheduled for after the tax payment deadline and the property owner chose not to pay the taxes by the deadline. Penalties were applied accordingly. The decision was rendered on July 11 where the City's assessment value was confirmed as correct by the board.

The property owner argues that taxes should not be due while a complaint is outstanding and that they were not informed that penalties would be applied. Taxes are always due on the tax payment deadline and all City correspondence is clear on the tax payment deadline. Section 479 of the Municipal Government Act clearly states:

**Obligation to pay taxes**

*479 Making a complaint under this Part does not relieve any person from the obligation to pay any taxes owing on any property or business or any penalties imposed for late payment of taxes.*

Both the City of Edmonton and Assessment Review Board websites also state that taxes must be paid by the tax deadline to avoid penalties, even if you file a complaint.

## Budget/Financial

As identified in Attachment 2, this report addresses 14 requests for tax adjustment and rebate or tax penalty cancellation, totalling \$10,469.60 in municipal tax rebates, plus associated penalties. Any amount of municipal tax rebate approved will be funded from the established reserve for prior year assessment appeals and adjustments. Additional requests, as outlined in Attachments 3-6, have not been included in the budget impact as they did not qualify under the criteria.

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.

## Legal

Section 347(1) of the Municipal Government Act empowers City Council to do one or more of the following with respect to property taxes, if it considers it equitable to do so:

1. Cancel or reduce tax arrears;
2. Cancel or refund all or part of a tax;
3. Defer the collection of a tax.

City Council may only do so with respect to a specific taxable property or business, or a class of taxable properties or businesses. Decisions on tax forgiveness are intended to be transparent. The City of Edmonton Charter allows Council to delegate, by bylaw, the power to forgive taxes to a maximum amount of \$500,000 in any taxation year. This delegation bylaw was passed on February 25, 2019.

## Public Engagement

Public Engagement was not undertaken to determine a recommendation for these requests because they involve independent, individual property matters.

## Corporate Outcomes and Performance Management

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)	N/A

	5-year average value of Council-approved tax cancellations and refunds	Private property owners: \$0.00 (2014-2018)  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  5-year average value of Council-approved tax deferrals	Ad-hoc requests from non-profit organizations: \$756,166.76 (2014-2018)  Private property owners: \$0.00 (2014-2018)  Ad-hoc requests from non-profit organizations: \$151,233.35 (2014-2018)  Private property owners: \$0.00 (2014-2018)	N/A
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

### 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. Tax Adjustment and Rebate Criteria
2. Qualifying Requests
3. Tax Rebate Request for 3574100 - PRIVATE
4. Tax Penalty Forgiveness for 2022036 - PRIVATE
5. Tax Penalty Forgiveness for 8006207 - PRIVATE
6. Tax Penalty Forgiveness for 10784701 - PRIVATE

### Others Reviewing this Report

- B Andriachuk, City Solicitor