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(Entered Confederation July 20, 1871)

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**4TH SESSION, 37TH PARLIAMENT**

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In addition, the legislation sets out for the first time the principles that will govern municipal-provincial relations. These principles address the relationship between both levels of government; acknowledge and respect the jurisdiction of each; work towards harmonization of laws, policies and programs; and foster cooperative approaches to matters of national interest. In particular, the provincial government will not assign responsibilities to municipalities unless there is provision for resources to fulfil those responsibilities. In other words, there will be no more downloading.

I want to give a couple of examples. Formerly, all roads in a municipality belonged to the province. Of course, the construction and maintenance of those roads was the responsibility of the municipality, but the underlying property was owned by the province in lieu of the Crown. Now these roads are to be owned by municipalities. Road closures will not have to be approved by Victoria. Unused road allowances can be used by municipalities for housing, parks or other appropriate uses. No permission is needed from the province, and no compensation is paid.

An example I would like to reflect on is one in an area of Richmond we call Steveston, which had a number of unopened road allowances. At the time, the city wanted to put in a non-market housing project on those particular properties. There was considerable difficulty in pursuing the closure of those roads, but the province and the city and B.C. Housing came together to eventually put in a non-profit housing project that today under this legislation would be much quicker and much more simplified.

A second example. Formerly, as we know, all parks dedicated as part of a subdivision required provincial approval to be used for something else. Now, if such land is not suitable for park use and the municipality has identified a better community use for it, the electors of that municipality are the only ones that need to consent to the change.

A final example. Fine ticket amounts for fines will no longer have to be approved by a Provincial Court judge. Formerly, before any bylaw could come into effect that contained fine amounts for non-compliance, a provincial judge had to approve them. The municipality did all the administration, the ticketing, the enforcement and the prosecution, and the fines often bore no relation to the seriousness of the offence. Now, at least, the municipality can establish the amounts and defend them in court if necessary.

[1055]

Part of the trade-off in giving municipalities more autonomy is that in return, they are more accountable to their citizens. I believe the Community Charter fairly sets out a balanced reporting mechanism to work toward that accountability. Today municipalities must have an annual budget and a five-year capital plan. This is a start. This new legislation requires an annual report that not only includes the audited financial statement but also must include which properties were previously tax-exempt and what the cost of a municipality is as a result of that, a report respecting city ser-

vices and operations for the past year and a progress report on those services and operations, and a statement of municipal objectives and the measures that will be used to determine progress respecting those objectives for the current and the next year.

Today measuring council's progress on what they said they were going to do is very difficult. With a mixture of political parties and individuals at the local level, with many different viewpoints, measurement is most difficult. Now, in an annual report that must be approved by a majority of council at least, the public will have a clear idea of what the objectives are of various municipal departments and the municipality as a whole. The public can ask questions of the council and hold them accountable as to progress.

Usually when you get a new job or an assignment, there is a job description or terms of reference to go with it. That has not been the case for elected councillors and mayors. You went to seminars for newly elected people, and I would certainly like to acknowledge the hard work of the Union of B.C. Municipalities for putting on these seminars every three years for newly elected people in local government, both in municipalities and in regional districts. You learn from that, or you learn from council members who have perhaps served longer and look to them for guidance.

This new charter actually sets down what the roles and responsibilities of elected officials are. When I was mayor, I was the chief executive officer of the city. I could appoint committees, chair council meetings and declare an emergency, and that was about it. Other duties you carved out for yourself as you met the needs of your community and established a working relationship with staff and the rest of council. Now the mayor, as spelled out in the legislation, must provide leadership to council, recommend resolutions and bylaws, communicate information to council, give general direction on behalf of council to municipal officers and reflect the will of council. The last two points particularly are going to prove interesting for many mayors in British Columbia. Giving direction to staff and direction for the community generally must reflect the will of council. This may create a healthy dynamic tension — on the one hand, to constrain the individualistic tendencies of many mayors and, at the same time, to have the power of council support behind their actions.

Clarity in the charter around gifts, insider information and disclosure is helpful, as local elected officials previously had to rely on shifting legal opinions. The ability to hold special meetings electronically, audiovisually or just audio, or to bring an absent council member in through electronic means is a great step forward. Definite guidelines for closed council meetings, the ability to have staff or a person other than staff attend a closed meeting and the ability to have a closed workshop or a shirtsleeve session for the purposes of council planning are all valuable clarifications to allow municipalities to work better.

The last area that I would like to comment on is part 9, intituled "Governmental Relations." This whole part is new legislation and is the first of its kind, I un-

derstand, in Canada. I know our local government colleagues will welcome for the first time a legislative commitment that there must be — and I underline that there must be — consultation with the UBCM before the amount of revenue transfers are reduced or an amendment is made to this legislation that affects municipalities. This charter spells out how extensive the consultation must be and that all reasonable efforts will be made to reach agreement if differences arise.

The legislation outlines a dispute resolution process to be followed if a difference arises between a municipality and another municipality, the province or a provincial government corporation. This is the first time that a province has been bound to a process to settle a difference with local government — truly groundbreaking in Canada.

[1100]

[J. Weisbeck in the chair.]

In conclusion, I had the opportunity to explore a dispute resolution process when I was chair of the greater Vancouver regional district and mayor of Richmond. There was a difference of opinion between Richmond and the GVRD on the growth management plan — a disagreement between two different governments. Although we only went a little way along the process before it was settled, I felt that the process chosen was indeed fair. Nothing as daunting as binding arbitration works as quickly and as efficiently to prod two parties to agree. Now a dispute resolution process is extended to municipalities, the provincial government and provincial corporations.

I would like to again congratulate the Minister of State for Community Charter for bringing this legislation forward and to thank all locally elected officials and their staff for their ideas and help. I know all local governments across the province welcome the changes it holds. We eagerly await part 2, dealing with elections, land use and regional districts.

**Hon. S. Santori:** I want to take this opportunity, first of all, to commend the minister on bringing forward something historical with respect to municipal governments in British Columbia and something that has been long overdue. As a former mayor of a community and having spent 13 years in local government, I welcome this change. I welcome the opportunities this is going to provide to municipalities.

I want to comment, first of all, on the process. I believe this was a process that was very inclusive, and it gave municipalities and stakeholders throughout the province a good opportunity to look at what the charter was attempting to achieve. I believe that the minister and his staff were very receptive and inviting in terms of suggestions on how we could improve this revolutionary change in how municipal governments work.

I want to commend the minister for the inclusion of all stakeholders in developing what I believe will be a charter that will serve municipalities. I think that for

the first time, municipal governments will be recognized in terms of the value that they bring forth to their communities. For the first time, it is an appreciation that local governments and the people that live in those local communities know what is best for their communities and do not need a prescriptive act similar to the Municipal Act that was there before.

I think that on many occasions the Municipal Act stifled creativity. It did not allow communities and those elected officials who were trying to make decisions and changes in the best interests of their communities.... It would not be conducive to allowing them to exercise their creativity.

The new charter recognizes, as was said by my other colleagues, that one-size-fits-all, especially in an act so onerous as the Municipal Act, can work for each and every community. Each community within this province is distinct and does have different challenges, and most have different approaches on how they want to deal with the challenges. The charters will open up the doors to creativity and the opportunity to think outside the box and to make decisions that will truly reflect the wishes of the community and to do what is in the best interest of the community.

The member for East Kootenay made reference to some concerns regarding the businesses in the province and some of the issues or concerns they may have with respect to the charter. Let me say that I have the utmost confidence in the elected officials of this province in the municipal levels of government. They, too, like this government, are dedicated to creating a friendly business environment in this province, and they will not prove to be a hindrance to the business community. As a matter of fact, I believe that municipalities will go out of their way to work with government to achieve the goals we have set in terms of involving the private sector and strengthening the private sector in this province to meet head-on the economic challenges we have and to achieve economic prosperity in the future.

I remain extremely confident that this new charter will, in fact, enable citizens to have more input, to request and demand more accountability of elected officials who have taken on a tremendous responsibility in governing their local communities and in taking steps and processes that will ensure the prosperity of these communities.

[1105]

In conclusion, I'm looking forward to the minister coming forward with the charter as it relates to regional districts, as I do believe that in the past we have seen some separation or some lack of clarity between the roles of the two governments, sometimes with conflicting mandates — something that has not always been in the best interests of governing our municipal communities. I'm hoping the charter that will come forward with respect to the regional districts will add clarity to the mandates of those bodies so that we can best serve the people of the communities of this province.

My final note, once again, is that I want to express congratulations to the minister and commend him for

# Municipal Revenue Sources Review

## An Analysis of Property Taxation



**August, 2012**



Ministry of  
Community, Sport and  
Cultural Development

## Property Tax in British Columbia

Municipalities use property taxation as their primary source of funding to provide services that have been requested by their taxpayers. Roughly half of all municipal revenue in the Province of British Columbia (Province) is collected through property taxation. The remaining half is mainly collected through user fees and developer contributions with minor revenue collected from senior government transfers.

Of total municipal property taxes, approximately 95% are collected as property value tax and grants-in-lieu of taxes. The remaining 5% is collected as parcel tax.

### Property Value Tax and Grants-in-Lieu of Taxes

A property value tax (also called an ad valorem tax) is a tax levied on the assessed value of land and improvements on a property. Land means physical land, including land covered by water. Improvements are buildings, fixtures and structures placed on or in the land, excluding chattels and production machinery.

A grant-in-lieu of taxes is similar to a property value tax but is collected from provincial and federal governments and their associated agencies and Crown corporations. Since senior governments are exempt from property taxation under section 125 of the *Constitution Act*, they pay annual grants instead of property value taxes; however, the methodology is quite similar.

### Property Tax Formula

The formula for determining property value tax revenue is as follows:

$$\text{Tax Revenue} = \text{Taxable Assessment} \times \text{Tax Rate}$$

#### Taxable Assessment

Taxable assessment represents the assessed value of land and improvements on which a municipality may levy property taxes. The determination of taxable assessment is done by an independent Crown corporation called British Columbia Assessment (BCA). With some minor exceptions, appraisers with BCA must annually value the land and improvements of all property in the Province (both rural and municipal). Each individual property is referred to as a folio and assigned a unique identification code by BCA.

#### Valuation Approaches

The Province, like most jurisdictions across Canada and the United States, uses actual or market value as the standard method of valuing properties. The method used to determine market value varies depending on the nature of the property and sufficient availability of market evidence but is based on:

- **Sales Comparison Approach** – market value is based on the sale price of comparable properties. This valuation method works best for properties that are frequently bought and sold such as residential housing.
- **Income Approach** – market value is based on the capitalized value of current rents and leases. This valuation method works best for properties that sell less frequently but have an active rental or lease market such as commercial office space.



- **Cost Approach** – market value is based on the replacement cost of a property (taking into account depreciation of buildings and other improvements). This valuation method works best for properties that are neither sold nor rented frequently such as industrial properties.
- **Prescribed Approach** – market value is based on prescribed costs set by regulation or policy. This valuation method works best for properties that cannot easily be valued using any of the other approaches such as ski hills and linear assets like rail tracks.

It is also common practice to value land based on its highest and best use, meaning the reasonable and optimal legal use of property which is both physically possible and financially feasible. For example vacant downtown land may be valued at its development potential rather than existing use. BCA will consider many factors when determining highest and best use, including: zoning, official community plans, and recent development trends.

#### Classes of Property

In addition to assessing a value, BCA assigns properties (or portions of properties) to a specific class based on its type or use. Currently in British Columbia, there are nine classes of property prescribed by the Lieutenant Governor in Council. Those classes are:

- **Class 1 – Residential** – Land and improvements used for residential purposes including: single family dwellings, apartments, condominiums, and manufactured homes.
- **Class 2 – Utilities** – Land and improvements used or held for rail transport, pipelines, telecommunications, closed circuit TV and electricity.
- **Class 3 – Supportive Housing** – Special needs housing for people at risk. Each property is assessed at a nominal amount of \$2.
- **Class 4 – Major Industry** – Land and improvements used for mining, processing, manufacturing, extraction, smelting, refining, and marine transport. Most properties in this class are involved in coal and mineral mining and manufacturing wood products and pulp and paper.
- **Class 5 – Light Industry** – Land and improvements used for extraction, processing, manufacturing, and transportation as well as associated storage and warehousing that is not included in Classes 2 or 4.
- **Class 6 – Business and Other** – All land and improvements not included in any of the other classes. This class is primarily made up of commercial property like office and retail space.
- **Class 7 – Managed Forest Land** – Land that is being used for the production and harvesting of timber.
- **Class 8 – Recreation/Non-Profit** – Land used for recreational activities (e.g. golf, skiing, tennis, swimming, etc.) and land and improvements used as places of public worship or for fraternal meetings.

- **Class 9 – Farm** – Land used for farming.

The critical purpose behind the different classes of property lies in the setting of tax rates. For each local government and public authority, tax rates may vary between different classes of property (e.g. between Class 1 and Class 2) but not within a class of property (e.g. all Class 2 property is taxed at the same rate). Taxes are discussed in greater detail in the second half of this paper.

The 2012 assessment roll contains entries for over 1.9 million properties valued at approximately \$1.1 trillion. Approximately 87.7% of all properties contain a residential component (Class 1), equating to approximately \$850 billion of the total value on the assessment roll. Class 6 properties are the next most common property type, making up 6% of all properties and \$177 billion of the total roll value.

### Tax Rates

Property tax rates are expressed as a rate per \$1,000 of assessment.

### General Municipal Taxation

Every year, each municipality in the Province must adopt a property tax bylaw. The tax bylaw must be adopted after the annual financial plan (budget) for the municipality as the financial plan determines the service level, spending and revenue requirements of a municipality for the current fiscal year. Based on the tax revenue requirements in the financial plan, the municipality will set its municipal tax rates to raise the appropriate revenue from the nine different classes of property.

Municipalities generally have very broad authority to set their tax rates. While they cannot vary tax rates within a class of property, they can vary tax rates between different classes. Setting different tax rates for different property classes is often referred to as a “variable rate” taxation system.

There are some specific restrictions on municipal taxing authority:

- **Utilities** — under section 199 of the *Community Charter*, Cabinet can make regulations prescribing limits on tax rates and the relationships between tax rates. A relationship between tax rates (also referred to as a tax ratio), is the ratio of the tax rate between two classes. For example, if the tax rate for Class 1 (Residential) is \$2 per 1,000 and for Class 6 (Business and Other) is \$10 per 1,000; the ratio of Class 6 to Class 1 is 10:2 (or 5:1).

This regulatory authority is currently used to set a maximum tax rate and ratio on Class 2 (Utilities). The maximum tax rate that can be levied by any municipality is the greater of \$40 per 1,000 or 2.5 times the Class 6 (Business and Other) tax rate.

- **Ports** — marine port property is a sub-category of Class 4 (Major Industry). In 2003, the Province launched the Ports Property Tax Initiative. One result of this initiative was a cap on municipal property taxes levied on port terminals. Under the *Ports Property Tax Act*, the cap was set at \$27.50 per 1,000 on existing land and improvements and \$22.50

per 1,000 on new investment. The Province provided affected municipalities, offsetting funding for the imposition of the cap.

- **New Municipalities or Boundary Extension** – incorporation of new municipalities or boundary extensions to existing municipalities are done through letters patent. In some cases, the letters patent will restrict the tax rate a municipality can levy on a specific property or class of property. Usually the restricted rate is based on the rural area tax rate levied under the *Taxation (Rural Area) Act*.

#### Taxation for Other Public Bodies

In addition to levying taxes for its own purposes, each municipality also levies taxes for other public authorities. Each year the municipality levies and collects the taxes, then remits the revenue to the appropriate public authority. The principal authorities are:

- **British Columbia Government (School Tax)** —school tax rates are set annually by Order-in-Council. A province-wide rate is set for each non-residential class including a nominal rate for Supportive Housing. The residential rate varies between school districts based on population and assessment base.
- **British Columbia Government (Police Tax)** — larger municipalities over 5,000 people, pay for most of their police costs. In smaller communities under 5,000 people and in rural areas, the Province sets tax rates to recover a portion of police costs. These tax rates are based on provincial tax ratios.
- **Regional District** — the regional district will annually requisition a dollar amount from member municipalities for regional services. Depending on the taxing rules for each service, which are set in the establishment bylaws, the municipality has the option of setting tax rates based on provincial tax ratios (set by regulation) or municipal ratios (based on relationship between General Municipal Taxes for different classes of property in the current year).
- **Hospital District** —in cooperation with regional health authorities, hospital districts determine the annual contributions from municipalities for health-related capital costs. Hospital districts will requisition amounts from each municipality who will then set the tax rates based on provincial tax ratios to raise the necessary revenue.
- **Translink (in Metro Vancouver only)** — Translink is the regional transportation authority in Metro Vancouver. Within the municipalities of Metro Vancouver, Translink levies two distinct property value taxes.
  1. The first tax is for core operations and capital and is levied on all property classes. This tax is based on an initial historical bylaw set by Translink and sets different rates for each class. Subsequent increases to these historical tax rates cannot exceed provincial ratios (for the increase portion only).
  2. The second tax is a special replacement tax only levied on the following classes: Residential, Utilities, Major Industry, Light Industry. Business and Other. The maximum amount of revenue this tax can generate per year is \$18 million.

- **Victoria Regional Transit Commission (in the Capital Regional District (CRD) only)** — this Commission is governed under the *British Columbia Transit Act* and provides transit services within the CRD. The Commission sets tax rates based on provincially prescribed tax ratios.
- **British Columbia Assessment (BCA)** — BCA is responsible for assessing all property values in the Province. The revenue required to cover operating and capital costs of BCA is raised through a property value tax. BCA levies a province-wide tax through an annual bylaw. Cabinet can place restrictions, including limiting tax rates and ratios, on BCA's taxing authority by regulation. To date, Cabinet has imposed no such regulation.
- **Municipal Finance Authority of British Columbia (MFA)** — the MFA is the local government banker and raises long-term debt from the bond markets to finance municipal infrastructure. The revenue to cover operating and capital costs of the MFA are raised through a property value tax. The MFA levies a province-wide tax through an annual bylaw. The tax rates are restricted by provincially set ratios.

<b><u>Prescribed Tax Rates and Ratios for Other Public Authorities (2011)</u></b>							
<b>Class</b>	<b>Title</b>	<b>School Tax Rates</b>	<b>Translink Tax</b>	<b>Translink Replacement Tax</b>	<b>BCA Tax Rates</b>	<b>Provincial Ratios*</b>	<b>Victoria Transit Commission Tax Ratios</b>
1	Residential	Variable	0.3349	0.0151	0.0621	1.0 : 1.0	1.0 : 1.0
2	Utility	14.10	2.5440	0.1632	0.5114	3.5 : 1.0	5.4 : 1.0
3	Supportive Housing	0.10	1.4527	-	0.0621	1.0 : 1.0	1.0 : 1.0
4	Major Industry	6.60	2.1027	0.1665	0.5114	3.4 : 1.0	5.4 : 1.0
5	Light Industry	6.60	1.8150	0.1476	0.1896	3.4 : 1.0	5.4 : 1.0
6	Business & Other	6.60	1.4735	0.1351	0.1896	2.45 : 1.0	5.4 : 1.0
7	Managed Forests	2.00	-	-	0.2953	3.0 : 1.0	5.4 : 1.0
8	Recreation/Non-Profit	3.40	0.3059	-	0.0621	1.0 : 1.0	1.0 : 1.0
9	Farmland	6.80	0.3543	-	0.0621	1.0 : 1.0	1.0 : 1.0
<p>* used for regional districts, regional hospital districts, police tax, increases to the Translink Tax, and MFA tax</p> <p><b>Note:</b> for police tax, the Supportive Housing rate (Class 3) is capped at \$0.100/1000</p>							

### Tax Exemptions

Every property owner in the Province must pay property taxes unless specifically exempted by provincial statute. Statutory exemptions are listed in both the *Community Charter* and the *Taxation (Rural) Area Act*. Local governments may also grant permissive (discretionary) exemptions under the *Community Charter* and the *Local Government Act*.

### Statutory Exemptions

Statutory exemptions are automatic exemptions from property tax provided by federal or provincial statute; municipalities have no discretion in this matter. In fact, statutory exemptions are assigned by BCA (not municipalities) and based on ownership and use of property. Usually these are properties that

address a broad public interest or provide a public service. Statutory exemptions are found in multiple provincial acts. Most are highly specific exemptions relevant to a small segment of properties, for example:

Exempt Property	Exempting legislation	Exempting Section
Hospitals and health facilities	<i>Health Authorities Act</i>	Section 15
Universities	<i>University Act</i>	Section 54
Colleges, BCIT, other Institutions	<i>College &amp; Institute Act</i>	Section 58
Public Schools	<i>School Act</i>	Section 129

In addition to these specific exemptions, there are also broader statutory exemptions that apply to properties located within a municipal boundary. These exemptions are provided in the Sections 220 to 223 of the *Community Charter* and cover properties like libraries, cemeteries, places of public worship, and municipal property. There are also parallel provisions for rural properties found in the *Taxation (Rural Area) Act* (Section 15) and *Local Government Act* (Section 809(1)).

A statutory exemption triggers an exemption from all property taxes including municipal taxes and taxes for other public authorities (e.g. school, hospital, regional district, etc).

Please note that provincial and federal Crown properties are exempt under the federal Constitution but pay a grant-in-lieu of taxes.

#### Permissive Exemptions

Permissive exemptions are discretionary in nature and each municipality has the ability to set their own policies on what permissive exemptions they want to allow for each taxation year. Permissive exemptions are granted by municipal bylaw under sections 224 to 226 of the *Community Charter*.

- 1. General Exemptions - Section 224** — this section provides the authority for general permissive exemptions. A municipal council may offer exemptions for periods of up to 10 years to a wide range of properties, including property owned or held by another local government, or a charitable, philanthropic or not-for-profit organization. A general permissive exemption triggers an exemption from all property taxes, including municipal taxes and taxes for other public authorities (e.g. school, hospital, regional district, etc).
- 2. Partnering, Heritage, Riparian, and other Special Exemptions - Section 225** - this section provides the authority to exempt eligible property for any period set out in the exempting bylaw. Eligible property includes property under a partnering agreement plus heritage, riparian, or golf course property. Land held for a future cemetery or mausoleum may also be eligible for an exemption under this section.

The key to these exemptions is the ability to make agreements with property owners respecting the extent of the exemption and the conditions under which it will be offered. These agreements may require owners to satisfy conditions, such as placing a restrictive covenant on the property or repaying the exemption amount under specified circumstances.

A municipal exemption in relation to heritage and riparian properties triggers an automatic exemption from taxes for other public authorities (e.g. school, hospital, regional district, etc). However, in relation to cemeteries, golf courses and partnering agreements, this type of municipal exemption does not trigger an automatic exemption from taxes for other public authorities. In order to trigger these other exemptions, a municipality must request a Cabinet regulation in accordance with the Section 131 of the *School Act*. Cabinet will weigh the individual merits of each request when making its decision about granting a broader exemption.

3. **Revitalization Tax Exemptions - Section 226** - this section provides the authority to exempt land, improvements, or both from the municipal property value taxes for the purposes of encouraging various types of economic, social, or environmental revitalization within a community.

Revitalization tax exemption programs may apply broadly or narrowly to different:

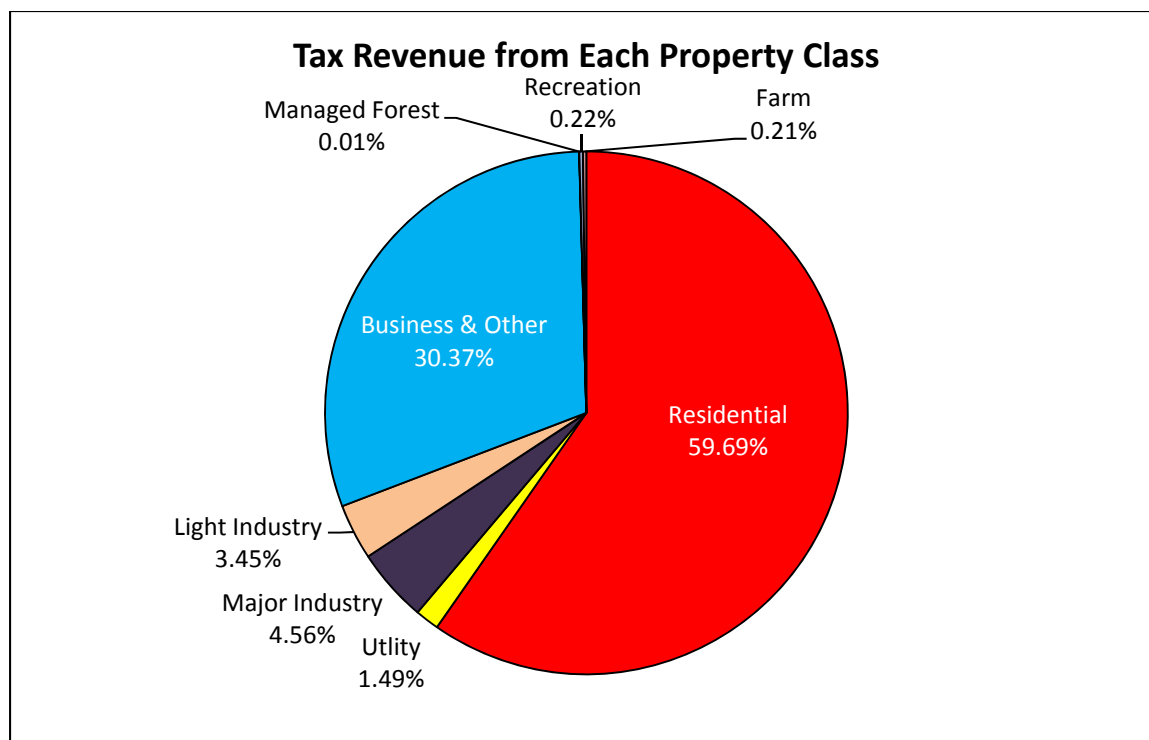
- geographic areas;
- types of property; or
- activities or circumstances related to a property.

Municipal revitalization tax exemptions do not qualify for exemptions from taxes for other public authorities (e.g. school, hospital, regional district, etc).

In addition to the above listed municipal permissive exemptions, there are parallel permissive exemptions for regional districts in sections 809 to 812 of the *Local Government Act*, which are generally applied in rural areas of the regional district.

### Distribution of Tax Between Classes

In 2011, approximately 90% of all municipal property taxes in the Province were collected from Class 1 - Residential (60 %) and Class 6 – Business (30%). The remaining 10% was divided between Classes 2, 4 and 5 (Utilities, Major and Light Industry). Classes 3, 7, 8 and 9 (Supportive Housing, Managed Forests, Recreation/Non-Profit and Farm) are immaterial for most municipalities so they will not be discussed in this section.



Over the past decade there has been a trend to shift some of the municipal tax burden off the non-residential classes to the residential class. Residential has gone from representing 55% of the total municipal tax burden in 2002 to 60% in 2011, while non-residential taxes have dropped from 45% to 40%. This shift has been consistent across municipalities of all sizes and areas.

## Historic Tax Issues (Residential versus Major Industry)

Several studies over the last two decades have focussed on the property tax ratio between Residential (Class 1) and Major Industry (Class 4). Often these studies indicate a growing gap in the tax rates between these two classes as Major Industry rates increase relative to Residential rates. Over the past decade the ratio of Major Industry to Residential tax rates has increased from 5.5:1 to 7.1:1, with Major Industry tax rates reaching in excess of \$50 per 1,000 in 18 British Columbia municipalities.

However, other studies point out that an examination of tax rates and ratios alone is only telling half the story. As discussed earlier in this paper, tax revenue is based on the following formula:

$$\text{Tax Revenue} = \text{Taxable Assessment} \times \text{Tax Rate}$$

A thorough study of tax revenue should examine both tax rates/ratios and property assessment. As discussed earlier in this paper there are multiple methods of assessing property. Residential properties are assessed on the basis of comparable sales, whereas industrial properties are assessed based on depreciated replacement costs. These replacement costs are based on industrial cost manuals

maintained by BCA called Major Industrial Properties (MIPS) Manuals. As facilities age, they depreciate. Standard depreciation rates for different types of industrial facilities are set by provincial regulation. Over the last two decades, residential properties values have increased dramatically, while industrial assessment has remained relatively static. Between 2000 and 2011 assessment for an average residential property increased by over 100% in 109 out of 154 British Columbia municipalities, including all the municipalities of Metro Vancouver and the CRD. Average residential assessments tripled in some major municipalities like Vancouver, Burnaby, Richmond and Victoria. Between 1988 and 2011, the total size of the Major Industry assessment base for all British Columbia municipalities increased from \$3.4 billion to \$4.2 billion (or 25%); whereas, over that same period of time, the residential assessment base increased from \$71 billion to \$690 billion (or 866%). The residential increase is due to a mix of price increases and new construction, whereas the industrial increases are almost exclusively due to new construction because existing buildings and improvements all depreciate (according to regulation).

Thus, the residential assessment base is dramatically increasing and the industrial base is declining. To recover the same amount of tax revenue for a rapidly increasing assessment base, a municipality would need to reduce its tax rate. Thus, residential tax rates have been declining while the actual tax burden has not.

The opposite is true for a declining assessment base. To recover the same revenue from a declining base, a municipality would need to increase its tax rate. Thus, industrial tax rates have been increasing while the total industrial tax burden has actually been declining.

As industrial tax rates increase and residential tax rates drop, the ratio between the two tax rates will increase substantially because the tax ratio is simply the increasing industrial rate divided by the decreasing residential rate. Over the last decade, the Major Industry tax ratio increased from 5.5 to 7.1. This yields the paradox of increasing industrial tax ratios despite the tax burden falling increasingly upon the residential class. Between 2000 and 2011, the total portion of municipal taxes collected from Major Industry dropped from 7% to 4.6%, while the residential tax burden increased from 55% to 60%.

In fact, the average municipal tax rate for Major Industry has marginally dropped from approximately \$31 per \$1000 of assessment in 2002 to \$29 per \$1000 of assessment in 2011.

This is not to say there are no problems. There are pockets of extremely high tax rates in the Province; however, the general trend has been towards a declining tax burden for Major Industry.

### **Critical Risk to Small Resource Communities with Major Industry**

There are a number of communities that have become increasingly reliant on a few industrial properties to provide a large portion of their tax revenue. This poses potential risks for the community should the industry suffer a severe economic downturn resulting in a partial or total shut down. When this occurs, it can result in two concurrent shocks: dramatic reduction in the municipal tax base and large-scale layoffs.



When a municipality is too reliant on a single industry, it can be very difficult to reallocate the lost taxes onto the other property classes as it would result in substantial tax increases to residents and business owners, many of whom have likely been economically affected by the shut down.

This problem has become quite prevalent in the last few years with the forest product industry downturn. As a result, some communities are beginning to diversify their tax base by slowly shifting the tax burden away from Major Industry and onto other classes. Although it is a very slow process, this is an effective way to mitigate some of the risks associated with potential consequences of an industry slowdown.

Recently there have been many studies that have looked at the property tax ratio between residential property and industry, often indicating that there is a growing 'gap' between the tax rates that is causing industry to be over-taxed. In order to understand why there is a 'gap' in the tax rate ratios you must first look at how the assessment structures of both the residential and industrial classes differ.

Residential properties are assessed using market value and both the number of properties and their value have been steadily growing. In 2002, total residential assessment within municipal boundaries was \$250 billion representing 81% of the total tax base. In 2011, residential assessment has grown to be \$689 billion, now representing 85% of the total municipal tax base. On the other hand, industrial properties only have their land value assessed at market value, while the improvements (the largest part of the assessment) are assessed at cost less a prescribed rate of depreciation of between 2% and 6% per year. Besides, when new investment occurs, industrial property assessments are always declining. In 2002, major industrial assessment within municipal boundaries was \$3.5 billion representing 1.1% of the total tax base. In 2011, major industry assessments have grown to \$4.2 billion, but their share of the total tax base has dropped to only 0.5%.

The difference in assessment movement between the residential and industrial class means the tax rates needed to collect the same amount of revenue from each class and also move conversely. Keeping all other factors equal, with residential assessment rising, the residential tax rate would need to decline, whereas the industrial tax rate would need to be increased yearly to compensate for the depreciating assessment. Over time, this has allowed a gap to grow between the rates, even though the amount of taxation revenue, or the portion of taxation revenue coming from each class, would remain unchanged.

This can be seen by looking at the provincial average rates and ratios from 2002 to 2011. In 2002, the average residential tax rate was \$5.61 per 1,000 of assessment. By 2011, that rate had dropped to \$4.01 despite the increase in the amount of tax burden residential property is paying. For major industry, the provincial average tax rate went from \$30.87 in 2002 to \$28.62 which is consistent with a tax shift away from non-residential. The interesting thing to note is that over the same period the tax ratios between these two classes went from 5.50 to 7.14 which is a 30% increase in the ratio 'gap' in only 10 years. This isn't to say that there is something wrong with the current assessment system, but to simply explain how the underlying factors of the current assessment and taxation system work.

### **Recent Events Affecting Distribution**

There have been a number of communities that, over the years, have become increasingly reliant on a few industrial properties to provide a large portion of their tax revenue. This poses a high level of risk for the community in the event that industry suffers an economic downturn. When a community's main industrial taxpayer shuts down, it can cause their assessment to plummet and the municipality's ability to raise tax revenue can dramatically diminish. When a municipality is too reliant on that industry, it can be very difficult to reallocate the lost tax burden onto the other classes as it would result in very high tax increases for their citizens and business owners. This problem has become very prevalent in the last few years with the forest product industry downturn and it seems many communities have begun, or are beginning, to better diversify their tax base by slowly shifting the tax burden onto other classes. Although it is a very slow process, this is an effective way to reduce both their reliance on industry and risk.

# Local Government in British Columbia

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sue and be sued in its corporate name, as support for Kitimat's capacity to sue. In addition, the court cited a 1979 decision in a municipal defamation case,<sup>6</sup> in which the court held, long before the enactment of the *Community Charter*, that a municipal corporation had the power to sue for relief by way of damages or otherwise for any recognized legal wrong.

There have been only a handful of cases dealing with natural person powers since the enactment of the *Charter*.<sup>7</sup> The main types of limitations on the use of natural person powers will now be considered.

### III. LIMITS ON MANAGING PROPERTY [§6.3]

One of the purposes of a municipality set out in s. 7 of the *Community Charter*, along with providing for good government and services and laws for community benefit, is providing for stewardship of the public assets of its community. While natural persons of full capacity may acquire and dispose of property as they see fit, municipal corporations in British Columbia are under the *Community Charter* constrained in their property dealings by special rules applicable to particular types of property. These rules derive from the trust-like basis on which municipal corporations usually hold these types of property, and deal mainly with the procedure in accordance with which they may dispose of the property.

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6. *Prince George (City) v. British Columbia Television System Ltd.* (1979), 95 D.L.R. (3d) 577 (B.C.C.A.). This case, decided prior to the enactment of the *Canadian Charter of Rights and Freedoms*, was not followed by the B.C. Supreme Court in *Dixon v. Powell River (City)*, 2009 BCSC 406, which also dealt with the alleged defamation of a municipality. The court held that it was "antithetical to the notion of freedom of speech and a citizen's rights to criticize his or her government concerning its governing functions, that such criticism should be chilled by the threat of a suit in defamation" (at para. 47). *Dixon* does not affect the general proposition that a statutory corporation like a municipality may sue to obtain redress for a legal wrong.
  7. For example, in *Jack's Towing Ltd. v. Abbotsford (City)*, 2007 BCSC 93, the B.C. Supreme Court held that the city's natural person powers, coupled with its revenue-raising authority, allowed it to enter into an exclusive auto towing contract with a revenue-sharing clause.
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