

# Municipal Government Act

## progressive powers for municipalities

### INFORMATION BULLETIN #8

#### TAX RELIEF

#### - Revised -

**Summary:** Municipalities may provide tax exemptions for low-income taxpayers and may provide for tax deferral.

**Legislation:** Specific - Sections 69, 70

**Discussion:** Various provisions of the *Municipal Government Act* allow for tax relief. This note is concerned with the low-income exemption (Section 69) and the postponed payment of taxes (Section 70).

#### **Low-income Exemption**

The low-income exemption is what was sometimes called the widows' and orphans' exemption. The exemption applies to everyone whose income is below the amount set by council.

The amount of the exemption is set by council by policy. The exemption amount is the tax reduction council wishes to provide. The exemption may be limited to property occupied as the taxpayer's principal residence. Generally, the provisions are the same as in the predecessor legislation, although the final date to apply is now at least thirty days after the assessment roll is filed, not twenty-one.

The low-income exemption allows municipalities to make the property tax more progressive (closer to ability to pay) by reducing the tax paid by poorer taxpayers.

#### **Tax Deferral**

For most municipal units the power to permit the postponement of the payment of all or part of a person's taxes is new. In order

to exercise the power, the postponement option must be adopted by by-law. The by-law sets out a program available to all who qualify. There is no discretion in the application of the program.

The by-law must

- ! define the income amount for people who would qualify.
- ! specify for how long the taxes are to be postponed. Common end dates would be so long as the property is occupied by the taxpayer, or the taxpayer's income remains below the set amount, or the property is sold or transferred. Most often it would be the earliest of the contingencies specified. Note that the tax lien and other limitation periods are extended for the full period of the postponement: s.70(3).
- ! include appropriate procedural provisions, including forms, affidavits to verify income and the like and other forms.
- ! specify whether to charge interest on the taxes postponed, and if so, at what rate.

Most councils that choose to implement a tax postponement bylaw will want to charge interest, but possibly not as much as is usually charged on outstanding taxes. Interest charges on taxes are generally set at a rate that encourages prompt payment. In instances where tax deferrals are appropriate, a council may want to alleviate this additional burden. See generally s.70(2).

A municipality may choose to postpone only a portion of the annual taxes that fall due. It is possible to establish a range or scale of postponed taxes, possibly related to income so that the lower the person's income the larger the portion of taxes that could be deferred or postponed. This is a matter for council to determine.

The Act provides that if some part of the taxes continues to be payable, but are not paid, when the taxes are three years in arrears the postponement ends: s.70(4). This essentially means that if there are tax arrears for which tax sale proceedings must be started as required by Section 134(2), the sale will be for all outstanding taxes including those that have been postponed. As

this would greatly increase the amount the taxpayer would have to pay to stop the sale, it should be a strong incentive to keep the reduced tax payments up to date.

Tax deferral is usually seen as a way to help low-income taxpayers remain in their homes.

### **Income Defined**

For purposes of both provisions, income is defined in subsection 69(1). Income means total income from all sources for the preceding calendar year (the same year people file income tax returns for). Council can determine to what extent income from others in the same household should be included. Income from pensions under the *War Veterans' Allowance Act* (federal war veterans' pensions) and under the *Pension Act* (death and disability pensions for veterans and their dependents) is specifically excluded as income.

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**Note:** The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant legislation and to legal advisors.