

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #14

AREA RATES

- Revised -

Summary: Municipalities have a broad range of area rate powers.

Legislation: Specific - Part IV, Section 75

Related: s.56, s.71(2) and (5), s.73, s.526

See the Municipal Accounting and Reporting Manual, Section 3040 for the accounting treatment of Area Rates.

Discussion: The area rate powers that municipalities have under the *Municipal Government Act* are much more extensive than the powers formerly exercised by rural municipalities and regional municipalities.

These powers may be used by all municipal units, including towns.

The key provision is Section 75 of the *Municipal Government Act*, which in part outlines the following:

- ! Area rates may be used to finance all or part of the cost of any municipal service or facility that council deems to be of benefit for an area.
- ! Subsidies from the general rate are permitted if council so determines: s.75(2), s.75(3) (a) and s.75(6). This means that a council can use a combination of area rates and the general rate to finance certain services if council so chooses. The cost of a service does not have to come all from area rates or all from the general rate.

- ! The rate may apply to all taxable property and occupancy assessments.
- ! The rate may apply to only residential property, only commercial property, only business occupancy assessments or to some combination: s.75 (2), s.75(3)(b). The choice is up to the council, but must be specified in the resolution setting the rate.
- ! Instead of a rate applied to assessment, an area levy may be a uniform charge per assessment, or per dwelling unit in the area: s.75(4).
- ! Area rates are first liens, the same as any other taxes.

Council accordingly has a great deal of discretion as to when and how to apply area rates. These are policy decisions to be made by the council. There are no plebiscite or petition requirements, although council is free to permit them as evidence of the wishes of the people.

Other Area Rate Powers

Other area rate powers include community council area rates (s.526, applicable only to Halifax Regional Municipality) and the equivalent of the business improvement district rates, levied by council, permitted by Section 56. Note that the Section 56 rates can be levied at different rates on business occupancy and commercial property, and can provide for minimum and maximum tax amounts.

Under Section 73, the council may set separate urban, suburban and rural tax rates (mandatory in Halifax Regional Municipality). These will be the subject of a future Information Bulletin, but should be considered when establishing the appropriate tax structure.

Council should keep area rates in mind when determining exemptions from taxation, or reduced taxation, under Section 71. Subsection 71(5) provides that unless it is stated in the exempting by-law, an exemption from taxation granted by the council does not extend to area rates. If council wishes the exemption to apply to area rates as well as the general tax rate, it

must be stated in the by-law. However, the reduction from commercial to residential rates, authorized by subsection 71(2), applies automatically to area rates.

The following issue paper raises many of the points that should be considered in designing an appropriate area rate structure. Area rates are not mandatory, and councils can continue their present practices under the MGA. There is time to carefully consider the broad range of options that the MGA provides to tailor the rate structure to the specific requirements of each municipality.

Resources: Attached Issue Paper, Area Tax Rates Based on Services, 1993.

Date Produced: March 1999

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.

ISSUE PAPER

Appendix to Information Bulletin #14 - Area Rates

AREA TAX RATES BASED ON SERVICES

In Nova Scotia, the urban areas have had few opportunities to establish a tax rate structure that reflects the services provided. The assumption appears to have been made that the level of services provided was reflected in the assessment. Residents on the edges of some of the towns received relatively few services, but paid the same tax rates. Given the generally lower values of properties in such situations, the total tax bill was less, and this has been regarded as a reasonably fair resolution.

There have been some exceptions, generally related to the downtown cores. Special rates for parking commissions in some of the larger towns were followed by the more generally applied business improvement district rates.

In rural municipalities, the area rate structure reflecting different tax rates for different services has been carried to extreme lengths in some parts of the province. An extensive network of rates for different services has arisen. These include separate rates for street lighting, fire protection, garbage collection, supplementary police protection, sidewalks, school trustee levies, and other services.

Some units have modified the structure of area rates and others have ignored them. Those modifying the basic structure include municipalities with large urban areas, where single urban service area rates have been set combining a typical package of urban services, applied over a number of polling districts of roughly similar character. Halifax County Municipality has an area rate for each of the two large urban communities, recommended in each case by a community council.

Those rural municipalities that have chosen not to have area rates, or to move away from them, have done so for several reasons. In at least one case, where the unit is dominated by a large industry, it was considered fairer to have that industry effectively subsidize all area rates rather than allow its benefit to be captured by only one relatively small area. Another regarded the system as tending towards the creation of separate district-based empires, diverting councillors from consideration of the needs of the municipality as a whole, and lending itself to potential abuse. As well, individual councillors tended to compete for the limited development available for their district, since it would reduce the area rate burden on their voters.

One potential resolution of part of the problem with area rates would be to allow them to be subsidized from the general commercial rate, but then impose the area rate itself only on residential property. This would effectively require revenue sharing across the region for all commercial property, and eliminate the incentive for competition among councillors for commercial development. It would not allow recovery by area rate of services provided to commercial properties. However, the correlation between the taxes obtained from commercial properties and the services provided to them is particularly weak and no significant inequity would result.

A possibility would be a general rate applicable to all properties in the municipality, both urban and rural, with a second urban services rate applicable in the urban area. There would, in effect, be only one area rate. The new council will have to judge whether this answer is preferable to adopting several area rates reflecting different cost levels and services mixes.

In recent years there has also been a considerable increase in the use of user charges, charges relating specifically to the service being provided. Water rates are the most obvious case of a user charge, where the amount of the bill relates to consumption of water (actual or estimated). Sewers are increasingly being funded in whole or in part by specific user charges, including some capital charges.

In a restructured municipal unit, some areas will have significantly different levels of services than others. To a considerable extent, these will result from the different characters of the areas, most often related to differences in the degree of urbanization.

People generally consider that if there is a difference in the range of services available, there should be a difference in the tax burden. Differences in the value of property do not reflect the whole of this necessary difference, and are not closely correlated with the service differentials. In order to provide the necessary allowance in the tax rate, services that are not provided at a reasonably uniform level throughout the new municipal unit should be financed, to the extent possible, through user charges, and secondarily through area rates. One or a few urban service area rates for the major urban areas of the new unit would be the best way to accommodate additional services. A more extended use of user charges will have to be balanced with the understanding that increased reliance on user charges tends to shift the cost of municipal services towards the residential sector, which, of course, puts the heaviest demands on these services.

The tax rate would then reflect differences in the services provided, and it would be readily apparent to an unserved taxpayer that the urban dweller was paying more for a higher level of services.

February 26, 1993