

**PUBLIC CONSULTATION ON THE
ELIMINATION OF THE
BUSINESS OCCUPANCY ASSESSMENT TAX**

SUMMER 2004

Background and Overview

The Business Occupancy Assessment Tax (BOAT) was instituted in 1978 as a replacement tax on Inventory and Personal Property.

The assessment and associated revenues now represent a significant portion of all taxes collected by municipalities, the norm being roughly 40 per cent of municipal tax revenues.

The Union of Nova Scotia Municipalities has petitioned the Province of Nova Scotia to do away with the BOAT. Both levels of government and the private sector agree the BOAT is an impediment to encouraging long-term economic growth in Nova Scotia.

In fact the BOAT is seen as another form of taxation in Nova Scotia that does not exist in other jurisdictions and thereby erodes efforts to create a highly competitive business atmosphere within the province. This perception exists despite the fact that comparisons of total tax loads indicate Nova Scotia is business friendly.

As the last province in Canada to maintain a mandatory Business Occupancy Assessment Tax, Nova Scotia faces the stigma of being unduly regulated when attempting to attract new businesses to the province.

The province wishes to cooperate with the Union of Nova Scotia Municipalities, whose goal is to eliminate the BOAT in a timely manner. This is supported by the government's commitment to streamlining red tape and creating the most competitive business atmosphere in Atlantic Canada.

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The UNSM and its 55 member-units also see other tangible benefits from the elimination of the Business Occupancy Assessment Tax such as less administrative costs, greater ease of collection, reduced default rates and enhanced revenues.

Municipal units consider the administration and collection of the tax to be onerous, unduly time consuming and at times ineffective in terms of revenue recovery.

Business Occupancy Assessment Tax does not represent a lien against real property and therefore results in substantial annual write-offs for municipal units as un-collectable. These losses are ultimately covered by businesses that pay their taxes and are estimated to be up to \$3 million annually.

The Government of Canada does not pay BOAT on its properties, opting instead to pay grants in lieu. This represents a shortfall for municipal units estimated to be up to \$8 million annually. This means in effect that Nova Scotia businesses are paying higher taxes than they should in order to offset the federal shortfall from grants in lieu.

Between the uncollected taxes and revenues lost due to the special treatment of federal government properties, Nova Scotia businesses are carrying an additional municipal tax burden estimated at roughly \$11 million annually.

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While the province provides assessment services for the BOAT, the responsibility for collecting the tax falls to the individual municipal units who are the sole beneficiaries of the revenues collected.

The Union of Nova Scotia Municipalities has asked the provincial government to be a partner in examining the options for the elimination of the BOAT. The province has undertaken a multi-pronged approach in determining reasonable options and the likely impacts of eliminating the BOAT.

While the UNSM wants the existing BOAT and accompanying process eliminated, municipal units must recover the revenues currently derived from the BOAT through a melding or conversion of the tax into an instrument easier to apply and collect.

The UNSM has been clear from the start of the process that revenues generated by the BOAT are required to maintain existing service levels in Nova Scotia and would continue begrudgingly with the existing system rather than lose revenues that are essential to their operations.

The method for recovery of these revenues is a decision totally within the discretion of the individual municipal units.

The historic balance between business and residential rates varies widely in Nova Scotia depending on socio-economic, demographic, and geographic considerations. A blanket solution imposed by the province is unlikely to provide greater benefits to taxpayers than one developed at the local municipal level.

Many municipalities prefer to dedicate their resources to other services their citizens require while developing a more efficient and equitable system to recover the revenue generated by the BOAT.

Business groups across the province have also indicated that restructuring of the BOAT presents an opportunity to ease the burden on small businesses and to position Nova Scotia as a competitive environment for the establishment of new businesses.

This examination of the overall tax system and any consideration of shifting the existing tax system between residential and commercial taxpayers is an effort that should start with the UNSM and its 55 member units.

The existing efforts to restructure the BOAT have progressed on the basis that the business community as a whole will not see an increased tax load. At the end of the day there is almost universal agreement to do away with the BOAT, with the outstanding issues being how and when.

In support of these business groups, and at the request of the Union of Nova Scotia Municipalities the province has undertaken steps that it hopes will culminate in the elimination of the business occupancy assessment tax.

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Public Consultation Review

One of the key steps in this process was the government's decision to seek public input on this proposal.

Public meetings were held across Nova Scotia over a four-week period with:

Truro	June 29
Wolfville	June 30
Yarmouth	July 5
Sydney	July 8
Halifax	July 13
Antigonish	July 20
Bridgewater	July 27

They included background on implementation of the BOAT and provided a high-level survey of the impact of proposed changes. These sessions were very successful and brought forward new perspectives on the issues while other issues were more clearly brought into focus.

The Department and the UNSM outlined the proposal and provided as much information as possible to audience members who had the opportunity to ask questions of both a specific nature relating to their own municipalities and/or businesses, or on the overall impact of the proposal.

In addition the Department and the UNSM received dozens of letters and numerous e-mails as follow-up to these public information sessions.

To further augment these public hearings, the Department and the UNSM held smaller individual meetings with stakeholder representatives including the Canadian Federation of Independent Business, the Tourism Industry Association of Nova Scotia, the Automobile Dealers Association of Nova Scotia, and other groups and individuals who wanted to address the issue.

The Department and the UNSM heard from 215 individuals during hearings.

This cross-section represented retailers, wholesalers, elected and un-elected municipal representatives, small business, charitable organizations, residential taxpayers and large corporations.

At the conclusion of the hearings the Department and the UNSM committed to collect and examine the information provided by Nova Scotians on their areas of legitimate concern and report back to the public.

The comments and questions that arose during hearings were wide-ranging in nature and dealt with general concerns in most instances, but related to very specific sector concerns in others.

Once all these concerns were examined it was possible to distil these into five distinct areas where the public felt that there was a need for additional work on the proposal.

The Department and the Union of Nova Scotia Municipalities are currently undertaking this work to fine tune the implementation process and identify creative opportunities for resolution of these concerns.

The public and businesses deserve a reasonable degree of comfort that implementation of the proposal will bring the aggregate benefits that the government and UNSM intend, while the possibility of unintended impacts is minimized.

Five Areas of Concern from Consultation

1. Overall Fairness

Without a doubt the number one issue identified by businesses, advocacy groups, and municipal representatives is the overall fairness of the initiative.

The Department and the UNSM acknowledge that in any policy change relating to the collection of taxes, that it is imperative that the basic fairness of the proposed changes are not only definable at the policy level but demonstrable during and after the actual implementation of the changes.

Concern was expressed that under the existing system where the BOAT is applied at different rates to different sectors that the effort to establish a level playing field would see some sectors benefit while others would see an increase in their municipal tax load.

The tourism and auto dealer sectors (roughly 11 per cent of all Nova Scotia businesses) now pay BOAT at 25 per cent of commercial taxes on their real property and these businesses would likely see a small increase.

At the same time the financial and insurance sector (roughly 3 per cent of Nova Scotia businesses), which pays the BOAT at a rate of 75 per cent of commercial taxes, would likely see a decrease in their municipal tax load.

The remainder of Nova Scotia businesses (85 per cent) pay the BOAT at a rate of 50 percent of commercial taxes. This group, by far the vast majority, would see their municipal tax burden remain the same or decrease slightly.

The reconciling of the 25 per cent tourism and 75 per cent financial institutions was a major concern for virtually all of those who expressed an opinion. Certainly the ability to pay was seen as a crucial factor in ensuring any changes were both “fair” and “equitable.”

Equally important was the historic precedent whereby the 50 percent group and the 75 percent group actually subsidize the tourism and automobile industries that enjoy the 25 per cent rate.

While tourism operators cite a poor season, high gasoline prices, and the small family nature of their businesses as reasons for a special rate, the same may be said for truckers, flower shop owners, computer sales, and the vast majority of those in the 50 per cent group.

Automotive dealers claim that large land requirements for display and sales justify their inclusion in the 25 per cent category. The same argument applies to

lumberyards, shopping malls and gardening outlets but these types of businesses are currently in the 50 per cent classification.

Additional information is being gathered as work continues towards identifying common ground for resolution of these issues.

2. Certainty of Impact

Members of the business community adopted a practical business perspective on the proposed BOAT changes. Putting aside the discussion on shifting residential/commercial tax ratios, they were interested in the bottom line. How much is it going to cost?

For the vast majority the answer to this question is based on Departmental modelling which indicates the cost for 85 per cent of Nova Scotia businesses should be marginally less. This scenario, which both the Province and the Union of Nova Scotia Municipalities agree on, was greeted with some scepticism.

Members of the Metropolitan Halifax Chamber of Commerce, the provincial Liberal Caucus and numerous private individuals and organizations have requested an independent impact study on the proposed changes.

The Minister for Service Nova Scotia and Municipal Relations, the Honourable Barry Barnet committed to undertake an Economic Impact Study during his speech at the UNSM's 2004 Annual Meeting.

The proposed change relies heavily on the federal government to pay its fair share of the BOAT to municipal units and provide leadership by complying with the same laws that all other citizens and businesses are subject to.

When the Ontario provincial government recently eliminated the Business Occupancy Assessment Tax the federal government response was to pay adjusted commercial tax rates on an equal footing with other taxpayers.

Nova Scotia anticipates similar treatment from the Government of Canada once legislation eliminating the Business Occupancy Assessment Tax is passed in the house and becomes law.

Terms of reference for a Request For Proposals to undertake the Economic Impact Study are being drafted.

3. Implementation

The original proposal for implementation of changes anticipated a two-year phase out period.

In conjunction with concerns over the certainty of impact, the vast majority of businesses also identified a longer phase out period as one mechanism to provide greater comfort with the proposed changes.

Municipal officials as well saw a longer phase out period as one more method of minimizing the possible impact of changes.

This slowing down of the implementation, or a “go-slow strategy,” offers a chance to smooth out any ripples resulting from elimination of the Business Occupancy Assessment Tax.

The Department has received suggestions that the phase out period should be anywhere from 10 years to one year.

The Union of Nova Scotia Municipalities, by way of Resolution, suggested a three-year phase out be adopted. This option is also under review.

Given the complexity of the issue, the fact that every Nova Scotian will be affected by the changes, the number of legitimate concerns raised by stakeholders and the diversity of the province’s 55 municipal units this suggestion is being given serious consideration.

A decision on the duration of the phase-out period and the option of a tiered phase-out for various sectors is pending.

4. Process

It is now 26 years since the BOAT was put in place. The financial position of taxpayers both residential and commercial, municipal units, and the province have changed significantly over that time.

The hearings generated considerable discussion about the larger issue of tax fairness, and the comparative levels of commercial and residential taxation in Nova Scotia.

A secondary objective of this initiative was to begin to deal with these and other issues through a logical and stepwise process beginning with the Business Occupancy Assessment Tax. There is almost universal agreement to the elimination of the BOAT.

The province and the UNSM realize this is merely a first step in dealing with larger issues. The elimination of the BOAT is a prerequisite for any consideration of those additional issues.

Despite several serious examinations of the issue over the last four years alone, advocacy groups have asked for greater inclusion in the process.

When establishing a balance between legitimate public interest and proceeding in a timely manner the Department and the UNSM agree there must be an opportunity for reasonable public input and education.

The Department is therefore examining options to re-engage those advocacy groups who feel their voice has not been heard loudly enough. If possible a model where municipal units, the province and advocacy groups may come together to work through the issues is superior to all others.

In this scenario the Department continues to play it's role in support of the UNSM not as an arbitrator or mediator but as a facilitator.

5. Landlords

Some of the issues relating to the effect of proposed changes in the BOAT will be unique to commercial leases.

Issues such as vacancy rates, re-opening of leases, and concerns over greater liability for collection of the BOAT replacement are mainly technical and legal issues that can be clarified through time.

It is important however that the province and the UNSM take the time required to resolve these issues. The Department's Assessment Services Division is committed to participating in this process as we work toward the solutions.

At the same time Service Nova Scotia and the UNSM are committed to vigilance as changes are worked through to ensure tenants are not subject to financial impacts that are not related to the elimination of the BOAT.

This work is ongoing.

Conclusions

A deliberate and methodical process has resulted in a substantial amount of work being done towards elimination of the Business Occupancy Assessment Tax.

The question is no longer **IF** the government will proceed, but rather **WHEN** the government will proceed.

In the coming weeks the Department will continue to advance the BOAT initiative in partnership with the UNSM, as the concerns identified are examined and solutions found.

The Department and the UNSM are committed at each step of the way to informing the public of Nova Scotia on how that work is proceeding as we look to strengthen municipal units, enhance Nova Scotia's business climate, and ensure the best use of taxpayers dollars.

Additional updates on the process and of the progress made in dealing with outstanding issues are anticipated to be available in early 2005.