

1980 BILL 13

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 13

THE MUNICIPAL TAXATION AMENDMENT ACT, 1980

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 13

1980

THE MUNICIPAL TAXATION AMENDMENT ACT, 1980

(Assented to , 1980)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 The Municipal Taxation Act is amended by this Act.

2 Section 2 is amended

(a) by repealing clauses 11 and 11.1 and substituting the following:

11 “farm buildings” means the improvements, other than a farm residence, used for farming operations and situated on farm land outside a city, town, new town, village or summer village;

11.1 “farm land” means land used for farming operations and consisting of one parcel or more than one parcel operated as a unit

(i) by a person who derives from the farming operations on that parcel or unit an income sufficient to provide a livelihood, if the parcel or unit contains 20 acres or more or has been reduced to less than 20 acres by expropriation, or

(ii) by a person who derives his principal income from the farming operations on that parcel or unit, if the parcel or unit contains less than 20 acres,

but does not include a parcel less than one acre in area;

11.2 “farm residence” means the improvement used as a residence by a person who carries on farming operations and situated on farm land outside a city, town, new town, village or summer village;

Explanatory Notes

1 This Bill will amend chapter 251 of the Revised Statutes of Alberta 1970.

2 Section 2 presently reads in part:

2 In this Act,

11. “farm buildings” means the residence and other improvements used in connection with the growing and actual sale of trees, shrubs and sod or any one or more of them for transplanting or the raising or production of crops, livestock or poultry or in connection with fur production or beekeeping and situated on farm land outside a city, town, new town, village or summer village;

11.1 “farm land” means land used in connection with the growing and actual sale of trees, shrubs and sod or any one or more of them for transplanting or the raising or production of crops, livestock or poultry or in connection with fur production or beekeeping consisting of one or more adjacent parcels operated as a unit

(i) by a person who derives from that activity thereon an income sufficient to provide a livelihood where the unit contains 20 acres or more or has been reduced to less than 20 acres by expropriation, or

(ii) by a person who derives from that activity thereon his principal income where the unit contains less than 20 acres,

but does not include a parcel of land of less than one acre in extent;

13. “improvement” means

(i) a building or structure erected or placed upon, in, over or under land, whether or not it is so affixed as to become transferred without special mention by a transfer of the land,

11.3 “farming operations” means

- (i) the planting, growing and sale of trees, shrubs or sod,
- (ii) the raising or production of crops, livestock, fish, pheasants or poultry, or
- (iii) fur production or beekeeping;

(b) in clause 13 by adding the following after subclause (iv):

(v) machinery, equipment and appliances that form an integral part of an operational unit designed for or used in transmitting or receiving communication signals for public resale, whether or not the machinery, equipment or appliances are affixed so as to become transferred without special mention by a transfer of the land;

(c) in clause 19

(i) in subclause (iii) by striking out “an improvement” and substituting “a building affixed to the land that would without special mention be transferred by a transfer of the land”, and

(ii) by adding “or” at the end of subclause (vi) and by adding the following after subclause (vi):

(vii) if the parcel, within the meaning of subclauses (i) to (iii), is situated within the boundaries of more than one municipality, each part of that parcel situated within the boundaries of a municipality;

3 Section 3 is amended

(a) in subsections (4) and (5) by striking out “by or under any law” and substituting “under this Act or any other Act”, and

(b) in subsection (6)(a) by adding “or section 25(1), clause 2.1” after “under subsection (4)”.

(ii) any thing affixed to or integrated in a building or structure affixed to the land that would without special mention be transferred by a transfer of the land, and

(iii) machinery, equipment, appliances, working tanks and other things including the supporting foundations and footings, but excluding buildings and excluding tanks used exclusively for storage purposes, that form an integral part of an operational unit designed for or used in

(A) processing or manufacturing, or

(B) the production of natural resources or the transmission of natural resources, or products or by-products thereof, by pipe line,

whether or not the machinery, equipment, appliances, working tanks or other things are so affixed as to become transferred without special mention by a transfer of the land;

(iv) a mobile unit when located on land owned or being purchased by the owner or purchaser of the unit, other than

(A) a mobile unit occupied by a bona fide tourist, or

(B) a mobile unit intended for vacation use while not occupied for any purpose;

19. "parcel" means

(i) a quarter section of land according to the system of surveys under The Surveys Act or any lesser area the description of which has been approved by the proper land titles office, or

(ii) where there has been a subdivision and a plan thereof has been registered in the land titles office, any unsubdivided block or lot, or any part of any such block or lot in any area of land shown on such plan, or

(iii) where an improvement has been erected on two or more blocks or lots thereof, all such blocks or lots, or

(iv) all the land forming part of a railway, irrigation or drainage right of way within the boundaries of a municipality excluding any portions to which subclause (v) applies, or

(v) each portion of the land forming part of a railway, irrigation or drainage right of way within the boundaries of a municipality that is used for a purpose other than the operation of the railway, irrigation or drainage system, or

(vi) all the unsurveyed Crown land in a municipality included in any one grazing lease or permit from the Government of Canada or Alberta;

3 Section 3(4), (5) and (6) presently read:

(4) Where, by or under any law in force in the Province, any land or improvement is wholly or partly exempt from assessment or taxation, or both, while or if it

4 Section 6 is amended by renumbering it as section 6(1) and by adding the following:

(2) The Minister may make regulations prescribing, for the purpose of section 2, clause 11.1,

(a) the level of income that constitutes an income sufficient to provide a livelihood, and

(b) the method of determining the income.

5 Section 8 is repealed.

- (a) is used for, or*
- (b) is chiefly or mainly used for, or*
- (c) is required and used for,*

a specified purpose, then, notwithstanding any such law, the land or improvement is subject to assessment to the extent that the use thereof does not come within the exemption and any taxes levied in such a case are due, payable and recoverable in respect of and against the entire property affected by the exemption as if no exemption existed.

(5) Where, by or under any law in force in the Province, part of a parcel or part of an improvement is exempt from assessment or taxation, or both, then

(a) that part of the parcel or improvement which is not so exempt shall, for the purposes of assessment and the levying of taxes, be deemed to be an entire parcel or improvement, as the case may be, and

(b) any taxes levied in such a case are due, payable and recoverable in respect of and against the entire property affected by the exemption as if no exemption existed.

(6) The Minister may make regulations prescribing rules and procedures

(a) for establishing the extent to which any property is or is not subject to assessment under subsection (4),

(b) for establishing or selecting the parts of any property that are and are not subject to assessment as mentioned in subsection (5), and

(c) concerning any other matter he considers necessary for carrying out the intent and purpose of this section.

4 Section 6 presently reads:

6 The Minister may make regulations prescribing

(a) standards and methods of assessment,

(b) levels of value to be used in determining what constitutes fair actual value for the purposes of assessment, and

(c) rules and forms,

for the use and guidance of assessors in making assessments in municipalities.

5 Section 8 presently reads:

8(1) Section 7 does not apply to the roadway and the superstructure of the roadway of a railway company that are assessable under section 19.

(2) The following is assessable in accordance with section 7:

(a) the land of a railway company, other than the roadway and superstructure;

6 Section 19 is amended

(a) in subsection (1) by striking out “railway company” and substituting “company that operates a railway”, and

(b) by repealing subsection (2) and substituting the following:

(2) The municipal secretary shall communicate the statement to the assessor of the municipality and, whether a statement is delivered to him or not, the assessor shall assess the roadway and the superstructure of the roadway of the company according to whether the property was a roadway or superstructure of the roadway on July 31st of the year in which the assessment is made or should have been made.

7 Section 20(1) and (2) is amended

(a) by striking out “right of way of a railway company” and substituting “railway right of way of a company that operates a railway”, and

(b) by striking out “the railway company” and substituting “the company”.

8 Section 25(1) is amended

(a) by repealing clause 12 and substituting the following:

12 farm buildings to the extent that they are used for farming operations;

(b) all improvements on land of a railway company, other than the roadway;

(c) all improvements of a railway company on the roadway and not forming part of the superstructure thereon.

(3) In this section "roadway" and "superstructure" have the meanings assigned to them by section 19.

6 Section 19(1) and (2) presently read:

19(1) Every railway company shall on or before December 31st each year transmit to the municipal secretary of each municipality through which the company's railway runs a statement, signed by an authorized official of the company, showing as of July 31st in that year

(a) the quantity of land occupied in that municipality by the roadway of the company, and

(b) the quantity of land, other than the roadway, owned or occupied in that municipality by the company and liable to assessment.

(2) The municipal secretary shall communicate the statement to the assessor of the municipality and, whether a statement is delivered to him or not, the assessor shall

(a) assess the roadway and the superstructure of the roadway of the company at a value not greater than \$1,000 per mile, and

(b) assess all other land and all improvements of the company as provided in section 8,

according to whether the railway's property came within clause (a) or clause (b) on July 31st of the year in which the assessment is made or should have been made.

7 Section 20(1) and (2) presently read:

20(1) Where improvements are erected or placed upon land that forms part of the station grounds or right of way of a railway company, if the land upon which the improvements are situated is leased from the railway company, the improvements, together with the land forming the site thereof and occupied therewith, shall be assessed to the lessee as if he were the owner of the land.

(2) Where any land that forms part of the station grounds or right of way of a railway company is held under a lease from the railway company and does not form the site of an improvement, the land shall be assessed to the lessee as if he were the owner thereof.

8 Section 25(1) reads in part:

25(1) The following property is exempt from assessment by a municipality, namely:

12. farm buildings;

(b) by adding the following after clause 12:

12.1 farm residences to the extent prescribed by the Minister under section 3(6);

(c) in clause 27 by striking out “exclusively for the purpose of providing living accommodation for elderly persons” and substituting “chiefly for the purpose of providing living accommodation for senior citizens or persons suffering from a physical or mental disability”, and

(d) in clause 28 by striking out “exclusively for the purpose of providing living accommodation for elderly persons” and substituting “chiefly for the purpose of providing living accommodation for senior citizens”.

9 Section 26(1), clause 9, is amended by striking out “Army and Navy Veterans’ Association” and by substituting “Army, Navy and Air Force Veterans in Canada”.

10 Section 29(3) is repealed.

11 Section 31.1 is repealed and the following is substituted:

31.1 Where, in a municipality,

(a) a general assessment is being made, and

(b) the factors, in the opinion of the assessor for the municipality, affecting the potential productivity as shown on the prescribed farm land assessment form for the current year are correct,

the assessor, on being authorized to do so by the Assessment Commissioner, may, without attending upon that farm land, enter into his returns for the purpose of the general assessment an assessed value of that farm land varied only in respect of those factors not affecting potential productivity.

27. land and improvements owned and operated by a non-profit organization while used exclusively for the purpose of providing living accommodation for elderly persons;

28. land and improvements owned by a foundation established under The Senior Citizens Housing Act or operated by a non-profit organization pursuant to section 15 of that Act, while used exclusively for the purpose of providing living accommodation for elderly persons.

9 Section 26(1) reads in part:

26(1) The following property is exempt from assessment unless a municipality, by by-law, authorizes an assessment to be made with respect to any or all of the undermentioned properties:

9. land together with improvements thereon owned or held under lease from the Crown by a branch or local unit of the Royal Canadian Legion, the Army and Navy Veterans' Association, and any other organization of ex-servicemen from time to time approved by the Minister,

(i) if and so long as the property is used chiefly for the purposes of the branch or local unit, and

10 Section 29(3) presently reads:

(3) When a town has been newly proclaimed a city, the council may, by by-law, adopt the assessment of land, including improvements, made in the previous year by the town, but the assessment so adopted shall not be adopted again in any succeeding year.

11 Section 31.1 presently reads:

31.1 Where

(a) a general assessment is being made in a municipality, and

(b) in the opinion of the assessor for the municipality, the assessed value of farm land as shown on the assessment roll for the current year is the proper assessed value of that farm land for the next following year,

the assessor, upon being authorized to do so by the council and the Assessment Commissioner, may, without attending upon and assessing that farm land, enter into his returns for the purposes of the general assessment an assessed value of that farm land in an amount equal to the assessed value of the farm land as shown on the assessment roll for the current year.

12 Section 33(1)(a) is repealed and the following is substituted:

(a) all improvements described in section 2, clause 13, subclause (iii), and shall allow, commencing the year following the year in which they first became assessable, accrued depreciation on those improvements to the date of reassessment,

13 Section 34 is amended by adding “or farm residences” after “buildings”.

14 Section 41(1) is amended by striking out “next following”.

15 Section 42 is amended by striking out “An elector” and substituting “A person whose name appears on the assessment roll, or his agent,”.

16 Section 45(3) is repealed and the following is substituted:

(3) A notice of complaint shall be delivered to, or sent by mail to, the municipal secretary or, in the case of a city, the assessor, at any time after January 1st but not later than

(a) if the notice is given in accordance with section 41(1), 30 days after the publication of the notice, and

(b) if the notice is given in accordance with section 41(2), 30 days after the mailing of the notice or posting of the notice, whichever is later.

17 Section 55(2) is amended

(a) by adding “, 62.1” after “61”, and

(b) by striking out “section 8” and substituting “section 9”.

12 Section 33(1)(a) presently reads:

33(1) Notwithstanding section 32, the assessor shall reassess not later than the 31st day of December in each year,

(a) all assessable machinery, equipment, appliances and other things described in section 2, clause 13, subclause (iii) and shall allow accrued depreciation to the date of the reassessment thereon,

13 Section 34 presently reads:

34 The assessor shall determine the value, equal to the assessed value, of all exempt land and improvements, other than farm buildings, as if they were assessable under this Act and shall include the valuations thereof in his return to the municipal secretary, clearly indicating that the property so valued is exempt from assessment and taxation.

14 Section 41(1) presently reads:

41(1) Upon preparation of the assessment roll pursuant to section 36 and not later than the 31st day of January next following, the municipal secretary, or the assessor in the case of a city, shall cause to be published in one issue of a newspaper having general circulation in the municipality, a notice in the prescribed form that the assessment roll has been prepared.

15 Section 42 presently reads:

42 An elector under the supervision of the municipal secretary, or the assessor in the case of a city, and during the office hours of the municipal secretary or the assessor may inspect the assessment roll of the municipality during such times as are mentioned in his assessment slip or in the notice published in accordance with section 41.

16 Section 45(3) presently reads:

(3) A notice of complaint may be handed to the municipal secretary or, in the case of a city, the assessor in person or sent to him by mail, and shall be so delivered or received by him

(a) within 30 days after the mailing of the assessment slip to the complainant as required by section 39, or

(b) where no assessment slip was mailed, during the month of January next following the completion of the assessment roll.

17 Section 55(2) presently reads:

(2) The assessment roll as certified in accordance with subsection (1) is, subject to amendment pursuant to section 61 or 63 of this Act, section 18 of The Assessment Appeal Board Act or section 8 or 12 of The Municipalities Assessment and Equalization Act, the assessment roll of the municipality for that year.

18 *Section 93.2 is amended*

(a) in subsection (1)

(i) by striking out “and (4)” and substituting “(4) and (4.1)”, and

(ii) by striking out “and” at the end of clause (a) and by adding the following after clause (a):

(a.1) in a municipal district, county, improvement district or special area, may provide for a further classification of assessed property as farm land, and

(b) in subsection (2)

(i) by adding “another rate applicable to farm land and” after “non-residential property and”,

(ii) by repealing clause (a) and substituting the following:

(a) establish a rate applicable to residential property that is less than the rate applicable to non-residential property and less than the rate applicable to farm land, and

(iii) in clause (b) by adding “or farm land” after “non-residential property” wherever it occurs,

(c) in subsection (4)

(i) by striking out “No” and substituting “Subject to subsection (4.1), no”, and

(ii) by adding “or farm land” after “non-residential property”,

(d) by adding the following after subsection (4):

(4.1) In a municipal district, county, improvement district or special area, the aggregate of the component rates applicable to residential property established under subsections (3) and (4) in respect of expenditures under section 93(1), except clause (g), shall not be less than 75% of the greater of

(a) the aggregate of the component rates applicable to farm land in respect of those expenditures, and

(b) the aggregate of the component rates applicable to non-residential property in respect of those expenditures.

18 Section 93.2 presently reads:

93.2(1) Subject to subsections (2), (3) and (4), a council, by by-law,

(a) may provide for the classification of assessed property as residential property and non-residential property, and

(b) may, if it so wishes, provide for the further classification of the residential property into two or more different classes on such basis as it considers proper.

(2) Where a council passes a by-law under subsection (1), the council, notwithstanding section 93, subsection (1), may in authorizing the levy under that subsection, establish one rate of tax applicable to the non-residential property and

(a) establish a lesser rate applicable to residential property, or

(b) where more than one class of residential property is provided for, establish different rates applicable to the different classes of residential property each of which or any one or more of which rates may be less than the rate established for non-residential property but none of which shall be more than the rate established for non-residential property.

(3) Where a council passes a by-law under subsection (1), the council, notwithstanding any provision of this Act to the contrary, shall in authorizing the levy under section 93, subsection (1), establish a separate component rate for each sum required for an expenditure specified in clauses (a) to (h) of that subsection.

(4) No component rate under subsection (3) for any sum required for any expenditure specified in section 93, subsection (1), clauses (a) to (h) applicable to residential property, or any class thereof, shall be greater than the component rate for that expenditure applicable to non-residential property.

(5) For the purposes of this section "residential property" includes

(a) any building used for residential purposes only,

(b) where there is a mixed use of a particular building, such portion of the building as is used for residential purposes,

(c) the parcel of land forming the site of any such building or buildings or, where there is a mixed use of any such building or buildings, a proportionate amount of the parcel forming the site thereof (such proportionate amount to be calculated as the same percentage of the assessed value of the entire parcel as the assessed value of that portion of the building used for residential purposes is of the assessed value of the entire building), and

(d) any other building situated on the same parcel of land, the use of which is directly ancillary to such residential use.

19 Section 109(3) is amended by striking out “An elector” and substituting “A person whose name appears on the assessment roll”.

20 Section 113.1 is amended by striking out “, 116.1”.

21 Section 145(1) is amended by adding the following after clause 8:

8.1 installing wires and pipes to be placed in conduits referred to in clause 8;

22 Section 2, clause 20, subclause (ii) of The Municipal Government Act is amended by adding “affixed to the land that would without special mention be transferred by a transfer of land” after “building”.

23 This Act comes into force on the day upon which it is assented to.

19 Section 109(3) presently reads:

(3) An elector is not liable to the payment of any fee under this section for an inspection of the assessment roll as provided under section 42.

20 Section 113.1 presently reads:

113.1 Sections 114, 116, 116.1 and 116.2 apply with respect to the licence fees payable under The Municipal Government Act or The Improvement Districts Act for mobile unit licences as if the references in those sections to taxes included a reference to the licence fees.

21 Section 145(1), clause 8, presently reads:

145(1) The council may authorize a work of any of the following types to be undertaken as a local improvement:

8. constructing any conduit for wires or pipes along, over or under a roadway, street, lane, alley, square or other public place or on or under private property from such roadway, street, lane, alley, square or other public place;

22 Section 2, clause 20, subclause (ii), of The Municipal Government Act presently reads:

20. "parcel" means

(ii) in any case where a building has been erected on two or more lots or parts thereof, all such lots, or