

1988 BILL 25

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

MUNICIPAL TAXATION AMENDMENT ACT, 1988

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 25

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MUNICIPAL TAXATION AMENDMENT ACT, 1988

(Assented to _____, 1988)

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 1 is amended by adding “or a parcel or part of a parcel described in the regulations” after “in area”.

3 Section 3 is amended

(a) by repealing subsection (3)(b);

(b) in subsection (6)(a) by striking out “24(1)(i)” and substituting “24(1)(h.1),(i) and (i.1)”.

Explanatory Notes

1 This Bill will amend chapter M-31 of the Revised Statutes of Alberta 1980.

2 Section 1(j) presently reads:

1 In this Act,

(j) "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 operation 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;

3 Section 3 presently reads in part:

3(1) Except as provided by this or any other Act, all property that is situated in a municipality is subject to assessment and taxation by the municipality.

(2) In the case of land or an improvement that is exempt from taxation, other than Indian land, the interest of a person who is

(a) a purchaser of the property under an agreement for sale, or

(b) an occupant of the property, or part thereof, under a lease, licence or permit,

is liable to assessment and taxation by the municipality and the interest of that person in the property shall be assessed in the same manner as if he were the owner of the property unless that person is himself exempt from taxation, except that when land of an arable nature in a Crown grazing lease is restricted in use to grazing, the leasehold interest of the person in that land shall be assessed as if the land were grazing land owned by him.

(3) Subsection (2)(b) does not apply with respect to

(a) an occupant in possession of the property in an official capacity on behalf of a person exempt from taxation,

- 4 *Section 6 is amended by adding the following after clause (c):*
- (c.1) prescribing, for the purposes of section 9, percentage rates applicable to the fair actual value of land;
 - (c.2) allowing a parcel to be segregated into areas for assessment purposes, providing standards and methods for the determination of the value to be ascribed to each area and providing that the sum of the values ascribed to each area is the fair actual value of the parcel;
 - (c.3) describing parcels or parts of parcels that shall be assessed and taxed as farm land or not as farm land for the purposes of this Act;
- 5 *Section 9(1) is amended by adding “the prescribed percentage of” after “at”.*
- 6 *Section 24 is amended*
- (a) *in subsection (1)*
 - (i) *by adding the following after clause (h):*
 - (h.1) improvements or parts of improvements situated outside a city, town, new town, village, summer village or a hamlet as defined in the *Municipal Government Act* on land other than farm land and used exclusively
 - (i) as a greenhouse,
 - (ii) to store crops, or
 - (iii) to house livestock or poultry,other than for commercial purposes, to the extent prescribed by the Minister under section 3(6);
 - (ii) *by adding the following after clause (i):*
 - (i.1) residences situated outside a city, town, new town, village, summer village or a hamlet as defined in the *Municipal Government Act*, to the extent prescribed by the Minister under section 3(6);

(b) an occupant under a lease, licence or permit of property owned by a municipality or leased from the Crown by a municipality;

(c) an occupant of a road allowance under a grazing lease, grazing licence or grazing permit, or

(d) an occupant of land under a grazing lease, grazing licence or grazing permit from the Crown when the land is held under a forest management agreement or a forest management lease from the Crown.

- (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) or section 24(1)(i),*
 - (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 in part:

- 6 *The Minister may make regulations*
- (a) prescribing standards and methods of assessment;*
 - (b) prescribing levels of value to be used in determining what constitutes fair actual value for the purposes of assessment;*
 - (c) prescribing, for the purposes of sections 10, 11, 13 and 14, percentage rates applicable to the fair actual value of improvements;*

5 Section 9(1) presently reads:

9(1) Land shall be assessed at its fair actual value exclusive of any improvements on it.

6 Section 24 presently reads in part:

24(1) The following property is exempt from assessment by a municipality:

- (c) one or more parcels of land to the extent in each case of
 - (i) 1 acre in the aggregate when situated in a city, town, new town, village or summer village,*
 - (ii) 4 acres in the aggregate when situated in any other municipality, or*
 - (iii) any area greater than the area referred to in subclause (i) or (ii) that may be exempted by by-law**
- if the parcels are held by or for the use of any religious body and are*
- (iv) the site of a building chiefly used for divine service, public worship or religious education, or*
 - (v) used exclusively as a parking area and solely in connection with the specified uses of the building described in subclause (iv);*
- (h) farm buildings to the extent they are used for farming operations;*
 - (i) farm residences to the extent prescribed by the Minister under section 3(6);*

(iii) by repealing clause (w.1) and substituting the following:

(w.1) a water conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat water for domestic purposes, but not including any buildings, structures, pipes, equipment, machinery, fittings, devices, apparatus or other things designed and used for

(i) further treatment of the water supply to meet specific water standards required for purposes of the manufacturing or processing operation;

(ii) the purposes of water reuse;

(iii) fire protection;

(iv) the production or transmission of a natural resource;

(iv) by repealing clause (w.2) and substituting the following:

(w.2) a sewage conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat and dispose of normal domestic sewage, but not including any buildings, structures, pipes, equipment, machinery, fittings, devices, apparatus or other things designed and used for treatment of any other effluent from the manufacturing or processing operation;

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

(2) If a parcel would be exempt from assessment under subsection (1)(c) except that the area of the parcel exceeds the maximum area prescribed by that clause or by the by-law referred to in that clause, the amount of the assessment for that parcel shall be the proportion of the amount that would be the assessment in the absence of this subsection that

(a) the area of the parcel in excess of the maximum area prescribed by subsection (1)(c) or the by-law, as the case may be,

bears to

(b) the total area of the parcel.

7 Section 25(2) is amended by striking out “and (g)” and substituting “, (g) and (h)”.

8 Sections 28(1) and 30(1) are amended by striking out “November 30” and substituting “December 31”.

(w.1) a water conveyance system for a processing or manufacturing plant from the water source to the inlet valve at the plant when the system is owned or operated by the owner of the plant;

(w.2) a sewer system used for treatment and disposal of sewage discharge from a processing or manufacturing plant when the system is owned or operated by the owner of the plant;

(2) If the land held by or for the use of any religious body and on which is situated a building chiefly used for divine service, public worship or religious education is not exempt from assessment under subsection (1)(c) by reason only of the fact that the area of the land exceeds the maximum area prescribed by that clause or by-law, as the case may be, the amount of the assessment of that land shall be that proportion of the amount that would be the assessment in the absence of this subsection that

(a) the area of the land in excess of the maximum area prescribed by subsection (1)(c) or the by-law, as the case may be,

bears to

(b) the total area of the land.

(3) Notwithstanding the exemptions enumerated in subsection (1), all land, including land otherwise exempt in a municipality, is liable to assessment and taxation for local improvements and for frontage tax.

7 Section 25(2) presently reads:

(2) A property assessed in accordance with a by-law passed pursuant to this section is liable to the levy of a tax for all purposes referred to in section 93, except those set out in section 93(1)(d), (f) and (g).

8 Sections 28(1) and 30(1) presently read:

28(1) Notwithstanding section 27, the council of a city, town, village, new town or summer village may by by-law, passed not later than November 30, authorize the assessor to use the assessed value of any property as shown on the assessment roll of the current year as the assessed value of that property for the next following year.

- 9 *Section 34(1)(a) is repealed and the following is substituted:*
- (a) all improvements described in section 1(n)(iii) and (iii.1), and shall allow depreciation on those improvements in accordance with the regulations,
- 10 *Section 35 is amended by striking out “and farm residences”.*
- 11 *Section 37(2) is amended by adding the following after clause (a):*
- (a.1) the classification under section 96 of each parcel of land that is liable to assessment, if a classification has been provided for under that section;
- 12 *Section 45(1) is amended by striking out “or” at the end of clause (d), adding “or” at the end of clause (e), and adding the following after clause (e):*
- (f) the classification of any property under section 96.
- 13 *Section 56(1)(a) is amended by adding “or classification” after “assessment”.*

30(1) Notwithstanding section 27, the council of a county or municipal district may, by by-law passed not later than November 30, authorize the assessor to use the assessed value of any property as shown on the assessment roll of the current year as the assessed value of that property for the next following year.

9 Section 34(1)(a) presently reads:

34(1) Notwithstanding section 33, the assessor shall reassess not later than December 31 in each year,

(a) all improvements described in section 1(n)(iii) and (iii.1), and shall allow, commencing in the year following the year in which they first became assessable, depreciation on those improvements to the date of reassessment in accordance with the regulations,

10 Section 35 presently reads:

35 The assessor shall determine the value, equal to the assessed value, of all exempt land and improvements, other than farm buildings and farm residences, 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.

11 Section 37(2) presently reads in part:

(2) The municipal secretary, or the assessor in the case of a city, shall enter on the assessment roll in so far as his information then permits:

(a) a brief description of each parcel of land that is liable to assessment and, unless it is a full quarter section or is described according to a plan of subdivision registered in a land titles office, the number of acres the parcel contains;

(b) the name and post office address of the owner of each parcel liable to assessment;

12 Section 45(1) presently reads:

45(1) A person whose name appears on the assessment roll of any municipality may complain to the court of revision in respect of

(a) an error or omission alleged in respect of the assessment of any property,

(b) an assessment of land or improvements, or both, alleged to be too high or too low,

(c) a property in any way wrongly assessed,

(d) the name of a person alleged to be wrongfully entered on or omitted from the assessment roll, or

(e) any person who should be assessed as a public school supporter having been assessed as a separate school supporter or vice versa.

13 Section 56(1) presently reads:

56(1) Any person

(a) who, or the assessment of whose property, is affected by a decision of a court of revision, and

(b) who appeared before the court of revision in person or by agent or sent to the municipal secretary, or the assessor in the case of a city, a document setting out in detail the grounds of his complaint,

may appeal to the Appeal Board against the decision.

14 Section 93(7) is amended by striking out “and (g)” and substituting “. (g) and (h)”.

15 Section 95 is amended

(a) in subsection (1)(a) by striking out “or” at the end of subclause (ii), by adding “, or” at the end of subclause (iii) and by adding the following after subclause (iii):

(iv) an authority authorized to requisition any sums referred to in section 93(1)(h);

(b) in subsection (2)

(i) by adding “or add to that amount, as the case may be,” after “shall deduct from that amount”, and

(ii) by adding “or is insufficient to meet, as the case may be,” after “exceeds”.

14 Section 93 presently reads in part:

93(1) The council shall in each year, by by-law, authorize the municipal secretary to levy on the assessed value of all assessed property shown on the assessment roll, a tax at the uniform rate on the dollar that the council considers sufficient to produce the amount of the expenditures as are estimated by the council or as are annually requisitioned on the council, to produce the sums necessary to meet

- (a) debenture instalments, interest or sinking fund payments falling due during the year,*
- (b) the contributions to a special reserve trust fund,*
- (c) ordinary municipal expenses,*
- (d) the requisition by the board of any school division or school district,*
- (e) money appropriated for recreation services and capital works expenditures in connection therewith pursuant to section 5 of the Recreation Development Act and section 213(3) of the Municipal Government Act,*
- (f) the requisition by the board of any hospital district,*
- (g) subject to the Property Tax Reduction Act, the requisition of the Government pursuant to the School Act, and*
- (h) any other sums which the municipality becomes liable to pay by virtue of any other Act.*

(7) In acting under subsection (1)(d), (f) and (g),

- (a) due allowances shall be made for the estimated probable revenue from business taxes and grants in lieu of taxes,*
- (b) if a discount on taxes is authorized pursuant to section 119, a tax discount allowance shall be made at the same rate as is used in determining the tax discount allowance under subsection (6), and*
- (c) an allowance may be made for non-collection of taxes at a rate not exceeding the actual rate of taxes uncollected from the previous year's tax levy as determined at the end of that year.*

15 Section 95 presently reads:

95(1) In this section,

- (a) "requisitioning authority" means*
 - (i) the board of trustees of a school division or school district,*
 - (ii) the board of a hospital district, or*
 - (iii) the Government in respect of a requisition made by it under the School Act;*
- (b) "requisition mill rate", with respect to a requisitioning authority, means the rate of tax in respect of the tax levy to meet the requisition of that requisitioning authority;*
- (c) "tax collection allowances" means the allowances referred to in section 93(7)(b) and (c).*

(2) A council, in determining the amount of the levy of taxes under section 93(1) for a year to meet the requisition of a requisitioning authority for that year, shall deduct from that amount the amount by which

- (a) the aggregate of*
 - (i) the taxes levied by the council in the preceding year to meet the requisition of that requisitioning authority for the preceding year, and*

16 *Section 96 is amended*

(a) *in subsection (1) by striking out “(2), (3), (4) and (5)” and substituting “(1.1), (2), (3), (4), (5) and (5.1)”;*

(b) *by adding the following after subsection (1):*

(1.1) If a council by by-law provides for the classification of assessed property, the by-law shall provide for further classifications of vacant residential land and vacant non-residential land.

(c) *by adding the following after subsection (5):*

(5.1) If a council has established more than 1 rate of tax under this section, the lowest aggregate of the component rates of tax established under subsections (3) and (4), in respect of expenditures under section 93(1) except clause (g), shall apply to vacant residential land.

(d) *by repealing subsection (6) and substituting the following:*

(6) In this section,

(a) “residential property” includes

(i) any building used for residential purposes only,

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

(iii) if there is a mixed use of a building, the proportionate amount of the building that is used for residential purposes,

(iv) the parcel of land forming the site of a building or buildings used for residential purposes or, if there is a mixed use of the land, the proportionate amount of the parcel that is used for residential purposes, and

(v) a parcel of land that is vacant residential land;

(b) “vacant non-residential land” means land with no improvements located on, in, over or under it, but does not include

(i) vacant residential land, or

(ii) farm land;

(c) “vacant residential land” means vacant residential land as defined in Part 1 of the *Property Tax Reduction Act*.

(ii) that portion of any money received as grants in lieu of taxes for the preceding year that, if the money had been collected as taxes, would have been attributable to the requisition mill rate for the preceding year.

exceeds

(b) the aggregate of

(i) the requisition of the requisitioning authority for the preceding year, and

(ii) the portion of the tax collection allowances for the preceding year attributable to that requisition.

16 Section 96 presently reads:

96(1) Subject to subsections (2), (3), (4) and (5), a council, by by-law,

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

(b) may provide for a further classification of assessed property as farm land, and

(c) may, if it so wishes, provide for the further classification of the residential property into 2 or more different classes on any basis it considers proper.

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

(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

(b) when 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 or farm land but none of which shall be more than the rate established for non-residential property or farm land.

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

(4) Subject to subsection (5), no component rate under subsection (3) for any sum required for any expenditure specified in section 93(1)(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 or farm land.

(5) 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.

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

(a) any building used for residential purposes only,

17 *Section 106 is amended by renumbering it as section 106(1) and by adding the following after subsection (1):*

(2) A council shall with respect to a specific property or business pass a resolution or by-law in any case where the council considers it equitable to do so providing for the refund, cancellation or reduction of all or any part of a special frontage or a special local benefit assessment for 1 or more years if the municipality

(a) has received a grant or other assistance from the Government of Alberta or the Government of Canada that is to be applied to the cost of the local improvement, or

(b) has refinanced at a lower interest rate the debt created to pay for the local improvement.

18 *The following is added after section 106:*

106.1 If there is an increase in the taxes of property because of an assessment of the property made for purposes of a general assessment, the council may pass a resolution providing

(a) for phasing-in of the tax increase with respect to all or any of the property, in equal increments, over a period not exceeding 3 years, and

(b) for the cancellation or refund of that portion of the tax levy that is not payable because of the phasing-in of the tax increase.

19 *Section 125(1) is amended by striking out “or used” and substituting “and used”.*

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

(c) if there is a mixed use of a building, the proportionate amount of the building that is used for residential purposes,

(d) the parcel of land forming the site of a building or buildings used for residential purposes or, if there is a mixed use of the land, the proportionate amount of the parcel that is used for residential purposes, and

(e) a parcel of land that is vacant residential land as defined in the Property Tax Reduction Act.

17 Section 106 presently reads:

106 A council may with respect to a specific property or business pass a resolution in any case where the council considers it equitable to do so

(a) to cancel or refund all or any part of a tax levy, or

(b) to suspend and defer for the period of time and on the terms and conditions that to the council seem proper, a special frontage or a special local benefit assessment.

18 Phasing in tax increase.

19 Section 125 presently reads:

125(1) All personal property of every nature and kind in or on the premises belonging to the person assessed or used in connection with the business carried on therein or thereon and for which the occupant is assessed under the business assessment, is liable for the business taxes due by that occupant, and

(a) the business taxes are a first charge thereon and have priority over any other lien or claim thereto,

(b) the personal property may be seized while on those premises or at any place on removal therefrom after the taxes are made due and payable, and

(c) the personal property may be sold in the manner provided by this Act, for the distress and sale of personal property for the non-payment of arrears of taxes.

(2) This special remedy for the collection of business taxes in arrears is in addition to any other right of the municipality granted by this Act for the collection of taxes in arrears.

20 Section 128(c) is amended by adding "or" at the end of subclause (ii), striking out "or" at the end of subclause (iii) and repealing subclause (iv).

21 The Assessment Appeal Board Act is amended in section 29 by striking out "and" at the end of clause (b), adding "and" at the end of clause (c) and adding the following after clause (c):

(d) whether or not any property was properly classified under section 96 of the *Municipal Taxation Act*.

22 Sections 12 and 21 come into force on January 1, 1989.

20 Section 128(c) presently reads:

128 When taxes that are not a lien on land remain unpaid in the case of a resident of the municipality for 14 days, or in the case of a non-resident for one month after the mailing of the tax notice, the municipal secretary may levy the taxes with costs by distress

(c) on the goods and chattels in the possession of the person taxed where title to them is claimed

(i) by virtue of execution against the person taxed,

(ii) by purchase, gift, transfer or assignment from the person taxed, whether absolute or in trust or by way of mortgage or otherwise,

(iii) by the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed or by any other relative of his if the relative lives with the person taxed or assists him in his business, or

(iv) by any person who has consigned the goods and chattels to the person taxed for sale in the ordinary course of the business of the person taxed, if the person taxed is not an auctioneer.

21 Amends chapter A-46 of the Revised Statutes of Alberta 1980.

22 Coming into force.