

CITY POLICY



POLICY NUMBER: C607

REFERENCE:

This Policy replaces the Tax Adjustment and Rebate Criteria that was passed in 1998 and Policy C543 which was adopted in 2009.

ADOPTED BY:

Edmonton City Council
January 22, 2019

SUPERSEDES:

Policy C543 and the Tax Adjustments and Rebate Criteria

PREPARED BY: Finance and Corporate Services
Assessment and Taxation Branch
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DATE: January 22, 2019
Review Date: 2021

TITLE: Retroactive Municipal Tax Relief

BACKGROUND:

In 1998, Edmonton City Council approved a set of tax adjustment and rebate criteria that assisted administration in determining when various types of property tax rebates were warranted. In 2009, Edmonton City Council also adopted Policy C543 which allowed for tax rebates for certain entities such as non profits that were in the process of constructing new facilities. In recent years Edmonton City Council has made decisions that have relaxed and to some extent broadened the requirements and application of these two older policies. In 2017, the Government of Alberta passed the Edmonton City Charter into law which has a clause that explicitly allows Edmonton City Council to delegate some of its tax cancellation authority. As a result of the time that elapsed since the original policies were adopted and the recent council decisions indicating the old policies needed to be updated, this Policy has been prepared to assist Edmonton City Council, taxpayers, and any delegate of Edmonton City Council on the requirements to qualify for municipal tax relief in the City of Edmonton.

This policy is subject to any specific provisions of the Municipal Government Act or other relevant legislation or Union Agreement.

Policy Statement:

Any Municipal Tax Relief remains at the sole discretion of Edmonton City Council. This Policy is to guide and assist Edmonton City Council in the decisions relating to Municipal Tax Relief.

Municipal taxation and associated Penalties may qualify for Municipal Tax Relief if they meet the terms of this policy. Municipal Tax Relief will not be granted on Provincial Tax and Requisitions. Penalties associated with Provincial Tax and Requisitions will only be cancelled when there is a change to the assessment pursuant to a tribunal or a court decision. In each case that a tax cancellation or refund is granted, interest that has accumulated since the original payment was made will also be credited to the taxpayer.

When considering a request for cancellation of municipal taxes, Edmonton City Council will take into account the following principles which are the basic principles that were used in the creation of this Policy.

- Fairness and equity to taxpayers
- Sustainability of revenues raised
- Simplicity, transparency and efficiency of the tax system
- Predictability and stability
- Competitiveness

Any decision made by Edmonton City Council on whether to grant or refuse Municipal Tax Relief is entirely discretionary, and will be final with no right of appeal.

The purpose of this Policy is to:

- a. Guide Edmonton City Council's discretionary power to grant retroactive tax cancellations and refunds pursuant to Section 347 of the *Municipal Government Act and the Edmonton City Charter*.
- b. Ensure that requests for retroactive tax cancellation, reductions, and refunds are dealt with in a fair and consistent manner.

1. DEFINITIONS

Throughout this Policy and the associated procedures:

- 1.1 "Act" means the *Municipal Government Act* RSA 2000, c M-26 as amended.
- 1.2 "City Administration" includes any individual employed by the City of Edmonton, or who is otherwise acting on behalf of the City of Edmonton.

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1.3 “Edmonton City Council” means the council that has been elected to represent the citizens of the City of Edmonton.

1.4 “Immediate Family Member” means immediate family limited to a spouse, a child, a grandchild, a sibling, a parent, or a grandparent. Family members through fostering or adoption will be treated in a similar fashion as blood relatives.

1.5 “Municipal Tax Relief” means municipal tax relief under Section 347 of the Act, and can include a cancellation, deferral, a reduction or a refund.

1.6 “Penalties” means penalties imposed under ss 344 and 345 of the Act.

1.7 “Provincial Tax and Requisitions” includes, but is not limited to, the provincial education property tax and requisitions pursuant to ss 359, 359.1, and 359.2 of the Act and designated industrial property requisitions pursuant to s 359.3 of the Act, and also includes the equivalent education amount applied as part of a community revitalization levy as referenced in any community revitalization levy rate bylaw.

1.8 “Tax Payment Period” is the period between the tax notice mail out and the associated tax payment deadline.

2. SUPPORTED MUNICIPAL TAX RELIEF

2.1 Unless otherwise specifically listed below, the deadline for making any application for Municipal Tax Relief will be 3 months after the tax due date or the end of the tax year, whichever is later.

2.2 The following types of requests are situations where Edmonton City Council will typically support Municipal Tax Relief:

2.2.1 Errors of Fact

- Where there is an objective error of fact in the assessment process that took place in the prior assessment year, and this error of fact has been proven by objective evidence, a cancellation, representing the difference in taxation once the error of fact has been corrected, to a maximum of \$1,000.00, will be considered for any municipal taxes and Penalties in the prior taxation year. An objective error of fact includes items such as an incorrect calculation of size, incorrectly assessing an improvement when the improvement does not exist, assessing a business that was out of operation, failing to adjust a local improvement levy to account for a new sidewalk or existing curb crossing, making a substantiated error in the exemption of a property, incorrectly adding an item to the tax roll, or valuing land as serviced when there is no servicing. An objective error of

fact must be reported to the municipality within 6 months of the current year's tax due date in order for cancellation to be considered;

- Taxes and Penalties on any portion of a property held under lease by a religious body, when the only reason that the City did not exempt the religious body was that the City was not aware of the lease. The application must be initiated by the owner *within a year of occupancy* and the religious body must provide a letter saying that they are aware of the request, and aware that the cancellation will be dealt with in accordance with this Policy. The owner must provide a letter saying that the benefit of the cancellation will be given to the religious body. This provision only applies to the previous years' taxes and related Penalties since the current year would be dealt with through an amended assessment notice.

2.2.2 *Payment Errors*

- Penalties relating to errors in the processing of a payment where the error was either partially or completely the responsibility of the City of Edmonton;
- Penalties arising as a result of an error in the payment process made by a taxpayer, a taxpayer's representative, or a taxpayer's bank, where:
 - A. A payment has been received by the City of Edmonton;
 - B. The error resulted in uncertainty as to how to apply the payment, or the error caused the payment to be applied to the incorrect account; and
 - C. It was possible to resolve the error in a way that does not cause a potential detriment to the City of Edmonton or another City of Edmonton taxpayer that is satisfactory to Edmonton City Council, or its delegate.

2.2.3 *Death and Illness Resulting in the Late Payment of Taxes*

- Penalties, for a period not exceeding 2 months, arising as a result of a death of the taxpayer when the death preceded the payment due date and was within the Tax Payment Period;
- Penalties, for a period not exceeding 2 months, arising as a result of a death in the Immediate Family of the taxpayer, when the death preceded the payment due date and was within the Tax Payment Period;
- Penalties, for a period not exceeding 2 months, arising as a result of unexpected life threatening illness to the taxpayer or an Immediate Family Member that was first diagnosed within the Tax Payment Period, or where a prognosis relating to a life threatening illness worsened during the Tax Payment Period;

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- Penalties, for a period not exceeding 2 months, arising as a result of the emergency hospitalization of the taxpayer. The taxpayer must have been hospitalized within the Tax Payment Period.

2.2.4 *Destruction of Improvements*

- When an event takes place that results in a building being completely destroyed or damaged in a way that renders the building uninhabitable for the remainder of the current tax year, the prorated taxes and any accrued Penalties to a maximum of \$1,000, on the value of the building from the date of the event until the end of the year will be considered for cancellation. Any calculation under this provision will be rounded to the nearest full month. This provision does not apply to buildings that are voluntarily demolished.

2.2.5 *Construction of Exempt Facilities*

- Taxes relating to the construction or renovation of an exempt non-profit facility as dealt with in this Policy under the category New Construction or Renovation of Exempt Non-profit Facilities.

2.2.6 *Late Payment Penalties on a Successful Appeal*

- Penalties that have been applied when a taxpayer makes a late payment but has an assessment reduced as a result of a successful appeal shall be forgiven. In this circumstance Penalties shall be recalculated based on the new assessed value and these Penalties shall remain owing. Any additional Penalties directly relating to the reduction shall be forgiven. In this situation, no application is required.

3. MUNICIPAL TAX RELIEF THAT WILL NOT BE SUPPORTED

3.1 While all decisions relating to Municipal Tax Relief will remain at the sole discretion of Edmonton City Council, the following types of requests are situations where Edmonton City Council will usually refuse to grant Municipal Tax Relief:

3.1.1 *Payment Errors*

- Penalties arising as a result of an error in the payment process made by a taxpayer, a taxpayer's representative, or a taxpayer's bank, that resulted in the payment being received late;
- Penalties arising as a result of an error in the payment process made by a taxpayer, a taxpayer's representative, or a taxpayer's bank, where in the opinion of Edmonton City

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Council, or its delegate, it was not possible to resolve the error in a way that does not cause a potential detriment to other taxpayers or the City of Edmonton.

3.1.2 *Payment Delivery Issues*

- Penalties arising from a delay in payment resulting from a postal strike;
- Penalties arising from a delay in payment resulting from lost or misplaced mail or a lost or misplaced courier delivery unless it can be shown that the City of Edmonton was partly or solely responsible for the lost or misplaced payment.

3.1.3 *Failure to Receive Notices*

- Unless otherwise dealt with in this Policy, Penalties arising from the late payment of taxes, including late payments that arise as a result of a claim that the taxpayer did not receive a tax notice in a timely fashion or at all;
- Penalties that arise as a result of a claim that a taxpayer did not receive a tax notice as a result of a change to an email or other address, unless the City of Edmonton made an error in processing the request.

3.1.4 *Payments of Other Charges*

- Amounts added to the tax roll, including any Penalties, associated with orders or notices issued under the Act or any other legislation such as the *Weed Control Act SA 2008 c.5.1*, awards ordered by quasi-judicial tribunals or the courts, or any other costs that a municipality is legislatively authorized to place on the tax roll;

3.1.5 *Disputes about Amounts Owing*

- Any claim that a decision of an assessment review board or other assessment tribunal is incorrect, leading to incorrect taxation;
- Any claim that an assessment is incorrect when a party has failed to file an assessment complaint, or filed such a complaint late;
- Alleged errors in taxes from an error in judgement in the assessment process, or an error in fact where there is no evidence to support the error.

3.1.6 *Litigation Issues*

- Any taxes and Penalties that arise from the failure to make payments as a result of probate, administration of an estate, foreclosure, receivership, or bankruptcy

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proceedings, unless a court has ordered that no payments relating to municipal taxes should be paid during the proceedings;

- No entity will be granted Municipal Tax Relief if they have received a grant or other financial assistance from the City of Edmonton or another level of Government, whether the grant or assistance is tied to assessment or tax or not, and there is a dispute about whether the entity is abiding by the terms of that grant or assistance;
- Any claim to reduce taxes or Penalties where a taxpayer is attempting to claim a set-off as a result of an unrelated allegation of liability against the City of Edmonton;
- No Municipal Tax Relief shall be granted for any period of time that an organization is operating a piece of land or a building illegally, including situations where final approvals have not been granted.

3.1.7 Forgiveness of Non-municipal Taxation

- No Municipal Tax Relief shall be given for Provincial Tax and Requisitions.

3.1.8 Non-qualifying Renovations

- No Municipal Tax Relief shall be given for construction or renovation projects, unless the construction or renovation project qualifies under the category of New Construction or Renovation of Exempt Non-profit Facilities.

3.1.9 Incorrect Party

- Any request where the party asking for Municipal Tax Relief is different from the party who was responsible for paying the taxes (such as where a property transfers or sells) unless the party that is responsible for paying the taxes supports the request.

3.1.10 Financial Hardship or a Good Payment Record

- Requests for relief for financial hardship that does not otherwise qualify under the terms of this Policy;
- Requests for relief even when there is a history of a good payment record that does not otherwise qualify under the terms of this Policy.

3.1.11 Outside the timelines or exceeding the maximums

- Taxes or Penalties that are supported Municipal Tax Relief, but are made outside the timelines to apply;

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- Any requests that exceed a maximum that is otherwise set under the terms of this Policy.

3.1.12 *Deferrals of taxes*

- *Any requests for deferrals of taxes.*

3.2 City Administration will take no action on requests that this Policy indicates will not receive support unless asked to do so by a member of Edmonton City Council by way of a notice of motion or other similar council request or action.

4. NEW CONSTRUCTION OR RENOVATION OF EXEMPT NON-PROFIT FACILITIES

4.1 Tax cancellation for owners of property who are renovating or constructing a facility for which a building permit has been issued, and that would otherwise qualify for a Municipal Tax Exemption upon completion of the construction, will be supported under the following conditions:

- Organizations described in the Act under Section 362(1)(d) school buildings, 362(1)(e) hospital buildings, 362(1)(h) nursing homes, 362(1)(k) religious buildings, 362(1)(l)(iii) buildings used for burial purposes, 362(1)(m) lodge accommodations and 362(1)(n) non-profit organizations excluding student dormitories, and in the *Community Organization Property Tax Exemption Regulation A.R. 281/98 (COPTER)*, will be given consideration. Non-profit organizations that do not fall under these sections of the Act will not qualify for Municipal Tax Relief;
- Applications for cancellation can be made at any time after a building permit has been issued. However, consideration for the cancellation will not be processed until the building has been completed, and is being used for the purpose for which it was designed;
- Before final consideration, an exemption application and all necessary forms to prove exemption eligibility must have been submitted to the City Administration for review, and it must have been determined that the organization and the property meets all requirements necessary to qualify, either wholly or partly, for exemption as set out in the Act and COPTER;
- Final consideration shall not be given unless all appropriate permits and approvals, including a completion certificate, have been issued by the City of Edmonton;
- The cancellation period commences at the time building foundations are laid, or at the time a significant renovation project commences that makes an area taxable, for any period of construction to a maximum of 36 months. Taxes that have been deferred from dates that are

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prior to the maximum of 36 months or taxes from prior to foundations being laid shall not be eligible for forgiveness;

- Where a building is only partially being used for an exempt purpose, only the portion of the building that is being used for the exempt purpose shall be eligible for the cancellation;
- A municipal tax cancellation shall not be made if the exempt entity is not the owner of the property unless the exempt entity has an active lease with the property owner during the term of renovation or construction; and
- Penalty cancellation will not be considered for any period while the building is being operated illegally, including situations where a property is being used but final approvals have not been granted.

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