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REGIONAL MUNICIPALITY

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Item No. 7.2
HRM Grants Committee
March 3, 2014

TO: Chair and Members of HRM Grants Committee

Original signed

SUBMITTED BY: ______________________________
Greg Keefe, Director of Finance & ICT/CFO

DATE: February 25, 2014

SUBJECT: **Program Re-Design - Tax Relief for Non-Profit Organizations**

ORIGIN

Regional Council has repealed HRM By-law T-200 and approved implementation of Administrative Order 2014-001-ADM..

LEGISLATIVE AUTHORITY

HRM Charter (2008) s.79 respecting grants and contributions.

RECOMMENDATION:

It is recommended that, for the purposes of discussion, staff return to the Grants Committee with specific details on a revised Tax Relief Program including:

a. The recommended Program Categories and any alternatives;
b. The formulas used for non-profit taxation;
c. Options for the specific tax rates and their impacts on non-profit sectors;
d. The impact on additional non-profits applying to the program;
e. The role of the Grants Committee in any future program;
f. Transition issues; and,
g. Public consultations.

BACKGROUND

Historical Context
Leading up to the merger of four municipalities to form HRM individual tax assistance programs were repealed and not replaced until 1997 with the introduction of By-law T-200.[1] The majority of recipients were added to the program in 1998. The Municipality was under pressure to maintain the eligibility of past recipients but given the degree of variance between groups providing identical or similar services the corresponding level of exemption had to be consolidated into four 'schedules' with transitional assistance to groups moving to a higher or lower level of tax payable. A fifth schedule was added to accommodate affordable and supportive housing.

Inequities in Program Design and Delivery
The current program is confusing to applicants. The provision of assistance has been delivered through a program with a fixed budget unable to accommodate increases in market-driven property values, numerous municipal tax rates, and growing demand. As a result, those admitted to the program receive automatic renewal while others may be deferred or receive lower levels of assistance purely based on budget capacity in any given year. New applicants have been placed at a disadvantage relative to their peers. Further, 'schedules' denoting the level of tax relief lack clear criteria. Consequently, the rationale supporting the level of tax relief has been based primarily on precedence or individual appeal. The combination of past practice, budget capacity, and appeals has resulted in inconsistency and leads to concern regarding equitable consideration – those with greater capacity for self-representation may displace others. Inconsistency has resulted in perceptions of unfairness, competition within and between non-profit sectors, and presents reputational risk to HRM.

Rationale to Support a Tax Rate for Non-Profit Organizations
The proposed replacement of 'schedules' with non-profit tax rates is intended to recognize that the assessment system cannot distinguish between non-profit and private ownership. The property owner is assessed for tax based on market conditions (value) and use (classification as Residential, Commercial or Resource). Typically, a non-profit organization's articles of incorporation stipulate that upon dissolution assets are conveyed to another non-profit with similar aims: the membership are not shareholders and receive no financial remuneration. Unlike the business sector, non-profits are limited in their ability to pass the cost of property tax to program users. Often their source of revenue is fundraising, modest service fees, or conditional grants resulting in revenue fluctuations and often a degree of dependence on government subsidies and grants, corporate sponsorship, and benevolence.

Public Support for Tax Assistance
Notwithstanding the non-profit sector faces financial challenges there may be a perception that a tax relief program is not a cost and the Municipality simply "makes less money". In fact, the opportunity cost (revenue waived that would otherwise be collected) is absorbed by other taxpayers. Hence, the proposed consultation process seeks input from members of the public whose payment of tax makes a tax relief program for non-profit organizations possible. The

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[1] In 1997 only one organization was assisted under the by-law (Soccer Nova scotia Training Centre Inc).

public has supported tax assistance to lower income homeowners[2] and it is anticipated that there will be general support for non-profits tax rates to recognize that benefits derived through non-profit ownership are not comparable to business interests or private homeownership.

Program Equity and Public Cost
Although the annual cost of the program is approaching $3,000,000 the central issue is not cost containment. To the contrary, if adopted, the proposed program re-design is expected to increase the annual cost of the *Tax Relief for Non-Profit Organizations Program*. Of equal or greater importance is the need to ensure that the program is credible, transparent, and levies an appropriate and consistent level of tax on eligible non-profits.

Comparable Municipal Programs
Further to the Auditor General's recommendation[3] a review of comparable municipal tax assistance programs was undertaken in 2013. The findings are included in **Attachment 1** of this report. Overall*, HRM's approach to tax relief is not substantially different when compared to programs that are not financed or controlled by a provincial government.* In general, municipal programs tend to align tax assistance with municipal services or discretionary priorities and emphasize facility or program access for the general public (ie. do not require membership or initiation fees). In some jurisdictions a charity may be afforded higher concessions despite the fact that there is no direct correlation between charitable status, revenue, or inability to pay tax.[4] A key distinction between HRM's program and others is the degree of inconsistency in the level of assistance afforded recipients compounded by complexity and uncertainty. An ability to manage applicants' expectations and simplify the program might help mitigate 'legacy' issues that have caused ongoing frustration and conflict.

DISCUSSION

The main issues to be addressed through a proposed program re-design are listed below. Overall, the approach emphasizes equity, consistency, and administrative efficiency. A proposed consultation process is outlined but will need timelines and the assistance of HRM's Corporate Communications.

The Grants Committee is asked to consider the underlying principles and approach. If there is agreement in principle, staff would examine the impacts and potential costs in greater detail. The aim is to garner agreement in principle prior to feedback from program participants and the general public.

1. **Replace Schedules with Tax Rates**

The proposed amendments to the Administrative Order would re-direct the program's focus to determining what level of tax is appropriate for the non-profit sector. Subjective issues regarding relative 'worth', an inability to pay, entitlement, precedence and so forth would be moot. *HRM*

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[2] Residential Tax Rebate (Administrative Order 10) and Deferral Program (By-law T-400).
[3] Corporate Grants, Donations and Contributions (2011).
[4] Charitable status is restrictive and not all sectors (eg. membership-based sports clubs) are eligible for consideration. By virtue of the ability to issue personal income tax receipts charities may have an advantage in raising donations, corporate sponsorship etc.

would not seek specific outcomes from recipients of tax relief: the sole purpose of the program is to reduce the amount of tax payable. In circumstances where viability is at risk or claims of alternate service delivery need to be substantiated such assistance may be provided through a grant or contribution agreement, a fee-for-service contract, or departmental funding agreement.

2. Non-Profit Tax Rates: Efficiency and Equity

As of January, 2014, there are 129 assorted charges that could make up a tax bill depending on the type of assessment and how many rates apply to a specific property. The "base tax rate" comprises three classifications (Commercial, Residential and Resource) to which there are approximately 63 different rates that could apply. The average tax bill has 6 to 10 rates, including mandatory provincial contributions. Consequently, clear policy is needed to identify which of these rates shall apply to a non-profit property owner or tenant.

Currently, 'schedules' are used to calculate the value of HRM's contribution. This is usually a two-step process: a Commercial assessment is converted to the Residential rate and then a further reduction may be applied as a percentage of the Residential rate. These calculations are done manually outside the computerized tax billing process and cannot commence until area rates are approved (June/July) and new tax rates are uploaded into the tax system (September/October). The standard of customer service is poor:

- Tax bills cannot be created and mailed in a timely manner;
- Individual accounts are reconciled late in the fiscal year creating cash flow challenges for recipient organizations;
- Confusion as to program eligibility and the value of HRM's contribution.

If 'schedules' were replaced by 'non-profit tax rates' these formulas can be coded into the applicable tax account and tax bills issued in a timely manner.[5] Recipients would be able to gauge the probable amount of tax due and budget accordingly. Simplifying the decision-making process is also important given a change to bi-weekly meetings of Regional Council.

3. Non-Profit Tax Rates by Formula

A non-profit tax rate with a minimum and maximum payment threshold could be applied in several ways, for example:

(a) by assessment classification (Commercial, Residential, Resource); or
(b) a category of non-profit program or service.

(a) Rates by Assessment Classification:

A 'non-profit tax rate' could be set according to assessment classification. The classification is based on a property's use, primarily residential or non-residential, and set by Property Valuation Services Corporation (PVSC). Because the assessment classification is impartial and guided by legislation, the assignment of tax rate by this method negates any preferential consideration. A uniform non-profit rate for each classification (Commercial, Residential and Resource) would

[5] The first tax bill of the year is 50% of the prior year's total tax bill. The second tax bill is the difference between the current tax assessment and rates, less the amount paid in the Spring.

not include location; the rate would be applied irrespective of urban, suburban or rural property location. This approach reduces the impact of market conditions on assessed value especially for urban and waterfront properties.

Arguably, this approach is strong in terms of objectivity, simplicity and predictability but is unable to distinguish between purely altruistic/benevolent services and an ability to recover some portion of costs from program users. For example, a temporary shelter for the homeless or a food bank unable to charge membership, program or rental fees, and whose clientele are limited in their fundraising capacity.

(b) Rates by Program Category:

Given the broad spectrum of programs and services offered by the non-profit sector a tax rate for each type of service would be administratively inefficient and could contribute rather than alleviate confusion. In the alternative, two categories are proposed that distinguish between "subsistence"[6] and "quality of life"[7] programs and services. This approach draws upon research in social determinants of health[8]. While acknowledging the non-profit sector's contribution to an 'enhanced quality of life' for many residents, healthy living programs aimed at under-privileged sectors of society have had limited success in improving health outcomes due to an individual's tendency to focus on basic subsistence and psychological coping.

Proposed Program Categories

Two categories are proposed: (a) Housing and Homelessness Category, and (b) Community Non-Profit Category. Operational definition of each category will be required in the program's guidelines so as to manage applicant's expectations and apply policy with consistency.

(a) Proposed Housing and Homelessness Category:

The Housing & Homelessness category recognizes that the primary determinants of health are not a function of medical treatment or lifestyle choices but rather basic living conditions including subsistence needs for shelter, food and clothing, and supportive relationships.[9] A tax rate to address housing and homelessness is also recommended on the basis of: (1) comparability with the intent of HRM's tax assistance programs for lower income homeowners[10], (2) the large volume of residential properties and commonality within the non-profit housing sector, (3) facilitates reporting on municipal affordable housing or homelessness targets or commitments, and (4) alignment with federal and provincial government interests with respect to housing.
The category would comprise two sub-categories: Affordable and Supportive Housing, and Subsistence Support to Lower Income and Homeless Persons as described below:

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[6] Within this context subsistence means shelter, food and clothing.
[7] The term quality of life refers to personal satisfaction (or dissatisfaction) with the cultural and intellectual conditions under which one lives as distinct from material comfort.
[8] D. Raphael. Social Determinants of Health. Toronto: Canadian Scholars Press. Second Edition, 2009.
[9] J. Mikkonen and D. Raphael. Social Determinants of Health: The Canadian Facts. Toronto: York University School of Health Policy & Management, 2010.
[10] Administrative Order 10 and By-law T-700.

- Affordable and Supportive Housing

This sub-category encompasses a continuum of *housing organizations incorporated for the purpose of providing accommodation for lower income households and persons at risk of homelessness.* The continuum of housing spans persons with special needs unable to obtain or maintain accommodation in the open market and/or in need of on-site supervision or support services, transitional housing, and independent living for lower income households subsidized by the Nova Scotia Department of Community Services or peers. The category excludes institutional lodging, out-patient and caregiver lodges, residential addictions treatment, hospice, campground accommodations, and administrative facilities. These services do not exclusively or primarily assist lower income persons in securing emergency shelter or a permanent and stable 'home'. Accommodation provided as a form of employment compensation or benefit and live/work accommodations are excluded, as are industry and trade organizations, religious and educational institutions.

- Subsistence Support to Low Income and Homeless Persons

This sub-category includes temporary overnight shelter for the homeless and emergency shelter for persons at risk of violence, and *subsistence support provided by organizations whose mandate as demonstrated in their articles of incorporation is the provision of emergency food (a food bank or 'soup kitchen'), clothing and personal items at no cost or* by *donation.* Excludes food-related fundraising, social or leisure meal programs, community kitchens, a food, clothing or furniture retail operation that primarily serves as a fundraising venture, international aid, and health services.

(b) Proposed Community Non-Profit Category

Organizations eligible for inclusion in the program that do not meet the criteria of the Housing and Homelessness category comprise the Community Non-Profit category. The scope of programming is diverse and includes sport, recreation, leisure, cultural, arts, volunteer rescue, environment, child care, health/medical, benevolence (eg. service clubs), corrections/community diversion, employment for persons with special needs, and ethno-cultural groups. Excludes government, government agencies, international aid, institutions, political, religious, and business-related interests.

4. Non-Profit Rates by Formula

The replacement of 'schedules' with non-profit tax rates allows for automated billing which is faster and more cost-effective to administer and results in predictability for recipient organizations. The rate would be applied per $100 of assessed value with a minimum and maximum payment threshold per property. A minimum threshold aids efficiency and represents a nominal contribution per property towards basic emergency services such as fire and police.[11] A maximum threshold per property assists affordability, especially for property located within the urban core where municipal tax rates are highest and waterfront locations where market demand/scarcity drives up property values.

The separate fire protection tax concessions for non-profit organizations exempt real property tax

[11] The minimum tax payable is comparable to that paid by homeowners in receipt of a tax rebate under Administrative Order 10.

by legislation can be merged into a single tax relief program. With annual payments as low as $2.75 per annum the concession has not been based on an inability to pay: in some cases HRM's administrative cost exceed the nominal value of tax relief requested. A minimum and maximum payable per property for fire protection will create efficiencies and the level of fire protection tax assistance would be uniform for all eligible non-profits irrespective of their status under the Assessment Act (1996).

5. Appeals

The basis of appeal would be simplified and limited to disputes regarding program eligibility or the category and corresponding non-profit tax rate to which an organization was assigned, not the rate itself. This approach reduces or eliminates disparities in self-representation evident under the former by-law's public hearing process.

6. Index Program Budget

To address inequities created by a fixed budget, it is proposed that the program's budget automatically accommodate any increase in assessment values through indexing. This approach would ensure that any additional budget increase is directed to new applicants and is based on the number of eligible new applicants and their respective non-profit tax rate category.

7. Cost of Program

Council can control the cost of the tax relief program through a combination of:

- The program's eligibility criteria;
- Non-profit tax rates;
- Minimum and maximum payment thresholds.

HRM is unable to control program costs resulting from:

- An increase in property value due to market conditions;
- An increase in assessed value due to major capital investment or property re-development by the owner;
- An owner's discretion with respect to appealing the property's assessed value, assessment classification, an assessment based on seasonal operations, or the application of a recreation tax rate.

Unless non-profit rates are adjusted annually, the cost of the program will increase annually as a result of property values and demand for admission into the program. Ultimately, in setting the non-profit tax rates Council determines the cost of the program and does so within the context of the overall municipal budget.

8. Late Application for Renewal

An application deadline for new applicants and renewals is essential for budget purposes and compliance monitoring[12] but the size of the program requires that recipients of municipal tax relief are able to self-manage. HRM assists in this regard by mailing renewal forms to all

[12] Property use, non-profit registration, programming.

organizations in receipt of tax relief in the prior year. To maintain the integrity of the program the deadline is consistent and the requirement applied with consistency. However, fully revoking tax relief on short notice is problematic to those organizations who have not budgeted for tax.

Rather than fully revoke eligibility for late renewals, consideration could be given to pro-rating tax relief as of the April 1st of the new fiscal year. For every day late, one day is deducted. In this manner there is still an incentive to apply on-time but the penalty for non-compliance does not fall into an “all or nothing” scenario. The recipient of discretionary tax assistance manages their own compliance.

9. Transitional Assistance and Alternate Service Delivery

Although “grandfathering” may appeal as a means of averting objections from groups in receipt of higher levels of exemption under By-law T-200 it creates major problems on a go-forward basis:

- Other groups see themselves as ‘same’ or as ‘just as worthy’ providing comparable service with the same or fewer resources and will demand identical consideration. A perceived inequity will drive demand based on emotional appeal.
- Preferential consideration for current recipients will perpetuate inequities in levels of exemption which is a source of confusion, frustration, and inefficiency in the current program.
- Differences in existing levels of tax assistance are based in historical relationships, budget constraints, and different eligibility criteria.

For non-profits in receipt of tax relief whose tax payment will increase above a stated threshold (for example $300), transitional assistance could be provided through a transition funding program. These grants could be reviewed after three (3) years after which the subsidy could be reduced incrementally over four (4) years. Using this approach, some organizations would have seven (7) years to adjust.

10. Discontinue Conditional Awards and Heritage Incentives

Although well intended, the practice of conditional awards that granted time-limited eligibility, an interim level of exemption, or accepted properties not assessed for tax has not served the public interest. Some recipients have resisted reverting to the appropriate level of assistance with claims of financial hardship, service cut-backs or closure. Changing levels of exemption based upon appeal has resulted in inconsistency among organizations providing the same or similar service – adding to frustration. Similarly, higher rates of tax relief for registered heritage property in protection and restoration cannot be demonstrated. The additional cost to HRM would be more effectively deployed in capital grants.

11. Reporting and Compliance Monitoring

By re-designing the program as strictly a tax rate, reporting on program outcomes or how a saving was re-directed to program and service outcomes becomes moot. Annual renewal will be required so as to confirm that an organization is duly constituted and active. In addition, HRM conduct an annual randomized and/or non-randomized audit of tax relief recipients with respect to property use and tenancy. All applicants to the program and the continued eligibility of a recipient of tax relief should be in good standing with the Municipality with respect to compliance with the terms and conditions of any grant, contribution or contractual agreement with the Municipality.[13]

12. Concessions for the Destruction of Property by Fire

There have been very few cases of full or partial destruction due to fire but some organizations elect to carry the risk of a high deductible as a means of keeping annual insurance premiums low. Some operations may be uninsurable or under-insured. In all probability, full or partial destruction by fire would result in a request for tax relief. Integrating this provision into policy reduces the need for individual appeals.

13. Leased Property

A limited number of leased properties have been admitted to the program but are primarily leased from government. These leases tend to be at less than market value rates. As such, the tenant receives both a rent concession and a tax concession that few non-profits receive in the open market. Any consideration of expanding program eligibility to include non-profit leasing from private and business interests must avoid unintentionally providing a financial benefit to the property owner.

Tenancy tends to fluctuate as compared to ownership making compliance monitoring a challenge. Therefore, any expansion of eligibility to leasing in the market should be deferred to allow for a review of comparable municipal programs in Canada and a comprehensive risk analysis. Current practice reduces this risk by requiring:

- The tenant (applicant) is the party billed by HRM;
- The term of the lease shall be a minimum of 5 years;
- The balance remaining in the term of lease shall be at least 3 years as of the date of application.

Proposed Public Consultation Process

Feedback shall be sought from both (a) the beneficiaries of the proposed program and (b) the general public whose taxes underwrite the ‘cost’ of this assistance program. To counter lobbying and differences in capacity for self-representation feedback shall not be weighted numerically. Instead, the rationale provided in support or opposition to the proposed program re-design, and any suggested alternatives, shall be documented and critiqued.

[13] At the Municipality’s discretion an organization in tax arrears may be admitted to the program provided they have a signed payment agreement with HRM and demonstrate compliance with same.

The consultation solicits feedback with respect to the proposed program re-design, not the proposed tax rates. Regional Council shall set the applicable tax rates and payment thresholds annually through the budget process.

- The consultation needs to be cost-effective and objective.
- The findings should be quantified and presented in a succinct, easily understood summary report. The use of visual pictograms to represent data is recommended where applicable.
- Key message: *this is not tax reform*. There is no intent to amend legislation or the current assessment system.

The vested interest of groups in receipt of higher levels of tax exemption under former By-law T-200 might present a barrier to change. The challenge will be to present the overall benefits of expanding the scope of participation, enhanced consistency, predictability in terms of billing and cash flow management, and to address inequities.

1. *Organizations Currently in Receipt of Tax Relief:* mail individual package with copy of report and invite individual written feedback by the stated deadline.

2. *Organizations in Receipt of a Reduction in Fire Protection Tax Rate:* mail individual package and invite individual written feedback by the stated deadline.

3. *Ratepayer, Homeowners and Business Associations:* invite participation of membership to complete an on-line survey.

4. *Public Access to Information and Resident Feedback:* using print media and HRM web site the general public will be invited to complete an on-line survey.

The survey findings and written submissions will be compiled and made available to the general public on-line. A synopsis will be presented to Grants Committee and Audit & Finance Standing Committee with any implications to program policy and/or budget.

FINANCIAL IMPLICATIONS

The financial implications of the proposed amendments relate primarily to:

a) Non-profit tax rates and payment thresholds (minimum/maximum) and a non-profit fire protection tax rate;
b) Savings realized from discontinuation of full exemption for registered heritage properties may be re-allocated to a capital grant program;
c) The duration and value of transitional assistance for organizations whose tax payments will increase.

The deferral of a decision regarding the inclusion of market leasing by non-profit organizations until 2017 allows for a thorough projection of cost and adequate risk management.

COMMUNITY ENGAGEMENT

Approval in principle of the proposed amendments to policy will be sought from the HRM Grants Committee, Audit & Finance Standing Committee, and Regional Council prior to soliciting public feedback.

ENVIRONMENTAL IMPLICATIONS

None.

ALTERNATIVES

The Grants Committee could overturn or amend a proposed amendment.

ATTACHMENTS

1. Non-Profit Tax Programs in Comparable Municipalities.

A copy of this report can be obtained online at http://www.halifax.ca/council/agendasc/cagenda.html then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Peta-Jane Temple, Team Lead Grants & Contributions, Finance & ICT 490-5469

Original signed

Report Approved by: ______________________________
Bruce Fisher, Manager, Financial Policy & Planning

Attachment 1

Non-Profit Tax Programs in Comparable Municipalities

In 2012, Finance (Policy & Planning) compared HRM's current tax assistance program to four Canadian "benchmark" cities identified by the Greater Halifax Partnership based on similar demographic and economic factors, namely St. John's, London, Regina and Victoria[14]. Tax exemption programs in Winnipeg and Edmonton were also reviewed, as well as municipalities in Nova Scotia governed by the Municipal Government Act (1996). It is important to note that some cities deliver a provincial program (Edmonton, Winnipeg, London) and as such are not comparable to a program designed and fully funded by a municipality. Program uptake and cost be higher in cities that serve as a provincial capital due to population size and a concentration of national, provincial and regional non-profit organizations.

Across Canada the property tax environment differs significantly in terms of provincial legislation, the allocation of services between the provincial and municipal government, and the extent to which a municipality relies upon property tax revenue as a percentage of all annual revenues. The following highlights identify similarities and key differences:

- ***Focus on municipal objectives***: policies in several benchmark cities required alignment with municipal service provision or municipal goals. Some programs focused primarily on recreation facilities open to the general public (St. John's, Winnipeg, Truro, Edmonton, Victoria).

- ***Public access:*** some policies require that a facility be primarily for general public use (Wolfville, St. John's, Edmonton, Victoria); some disallowed membership-based organizations or those that required initiation fees. The City of Edmonton administers the provincial *Community Organizations Property Tax Exemption Program* that is highly prescriptive. The city program is high volume: a detailed review of recipients is conducted every five years.

- ***Registered charities:*** In some cases registered charities were afforded higher levels of exemption (St. John's, London). These groups provide altruistic service. Charitable status is harder to obtain and oversight is provided by Revenue Canada.

- ***Easy to understand:*** Most Nova Scotia municipalities have only one or two levels of exemption as per legislation.

- ***Public information:*** Most Nova Scotia municipalities provide a list of properties exempt by by-law or policy.

- ***Significant variance in leasing eligibility:*** Not all municipal or provincial programs include tenancy but of those that due most are restricted to leasing of municipal property and/or leases registered with the provincial land registry.

[14] The fifth benchmark city, Quebec City, does not have a tax exemption program.

The inclusion (possibly phased) of eligible non-profits leasing in the market is intended to provide equitable access to opportunity. A minimum duration of lease is recommended to reduce risk the risk of default and for administrative efficiency.