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HALIFAX
REGIONAL MUNICIPALITY

PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
May 11, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

George McLellan, Chief Administrative Officer

Dan English, Deputy Chief Administrative Officer

DATE: May 10, 2004

SUBJECT: **HRM / Provincial assessment legislation and Impacts**

ORIGIN

Recent legislation limiting Imperial Oil property taxes.

RECOMMENDATION

In response to recent legislation tabled by the Province which:

1. Forces HRM taxpayers to pay for a Provincial Economic development subsidy;

2. Forces HRM to subsidize tax revenues from Imperial Oil while Provincial revenues from Imperial Oil are increasing;

3. Ignores the underlying issue that market value may not be the best means of determining who pays how much for property taxes and instead makes a deal with one taxpayer at the expense of other taxpayers, this results in a disproportionate impact on lower income HRM residents due to the regressive nature of property taxes;

4. Eliminates the Province's own requirement to give municipalities 12 months notice when they make decisions which "have the effect of decreasing the revenue received by municipalities in Nova Scotia".

It is recommended that Halifax Regional Council authorize staff to undertake a full analysis and report on the recent property tax law amendments proposed by the province for the purpose of alerting the Province and HRM residential and commercial taxpayers to the actual impacts and;

Further, that the HRM initiate a review of commercial and industrial taxation, specifically, but not limited to tax burden, and invite key stakeholders to participate in this review so as to ensure that solutions are based on actual data and sound and fair taxation principles.

BACKGROUND

In recent weeks the Province of Nova Scotia has taken steps to limit the property taxes paid by one industrial taxpayer (Imperial Oil Dartmouth Refinery).

These changes are being presented to the public as a response which address underlying problems this taxpayer is experiencing. When grouped with the assessment capping proposal (Bill 40) they in fact represent an alarming trend which sees the Provincial government cherry-picking specific taxpayers or groups they wish to assist (but cannot afford to) and providing subsidies from the revenues of another level of government - Nova Scotia municipalities.

In the most recent instance, the Imperial Oil legislation side-stepped the 12-month notice clause creating an additional impact, in that the changes directly affect the 2004/05 revenues of HRM.

DISCUSSION

There are a number of inconsistencies and issues that flow from these recent decisions which have not bee fully explained to the public and one might argue are poorly understood by the Province of NS.

1) The Imperial Oil legislation is positioned by the Province to address economic development issues. Municipalities in NS have been prevented from subsidizing commercial taxes or to providing incentives to commercial enterprises. This limitation was created to prevent municipalities from using municipal tax dollars to compete with one another for commercial businesses and because economic development is the mandate of the Provincial government supported through income taxes. This new legislation represents a Provincial economic development subsidy paid for from municipal tax revenues.

The Province is now stating that similar tax agreements have been requested by municipalities and HRM in particular and that the Imperial Oil legislation is no different. The specific examples include Maritimes and Northeast Pipeline, Halifax International Airport Authority and Heritage Gas.

The Maritimes and Northeast tax agreement was negotiated by the company, Nova Scotia's municipalities and the Province of Nova Scotia and was overseen by the UARB. The driving force behind the tax agreement was the Provincial governments' commitment that there would be no tax obstacles to the natural gas industry.

The Halifax International Airport Authority is a non-profit community based organization, not a commercial enterprise. The commercial operations which exist within the Airport facility are fully assessed and pay real property and business occupancy taxes.

The Heritage Gas tax agreement was negotiated through a UNSM sub-committee only after it was made clear by senior Provincial staff that the Province was prepared to force a tax agreement on behalf of NS municipalities in order to bring natural gas to Nova Scotia. Assuming that municipalities could negotiate better in their own best interest a sub-committee was struck. In addition it was made very clear by Provincial staff that there would be no provincial tax subsidies provided as the government had made commitments not to subsidize natural gas through Provincial revenue streams, ie: capital tax, income taxes, etc.. This did not prevent the Province from ensuring those subsidies would flow from another level of government. This can hardly be described as "HRM"'s request for a tax agreement.

2) The subsidization of individual industrial property tax bills has the result of passing the amount of the subsidy along to all other commercial and residential property taxpayers on the basis of market value versus ability to pay. Municipalities work within a legislatively restricted tax environment which affects both the rates permitted and the basis of distribution. The number of tax rate categories are limited, leaving municipalities no provision for flexibility to consider non-profit or large industrial taxpayers differently. In fact a request by HRM to the Province to consider a non-profit category has received no response. Market value as the basis of distributing property tax costs among taxpayers does not directly reflect ability to pay or level of municipal services received. Yet, all municipal requests to truly examine municipal taxing powers have received little interest by the Provincial government over the years. Using ability to pay as the basis for some property taxpayers but not the rest clearly disadvantages all other taxpayers.

3) The Imperial Oil decision is being supported Provincially on the basis that with the 2004/05 tax year, property taxes on Imperial Oil would be disproportionately higher in NS than in other Provinces. Our research indicates that the Dartmouth refinery does pay higher property taxes than do refineries in some other Provinces. Partly this is because the commercial assessment system in other provinces allows for various classes of commercial property. Commercial and Industrial tax burdens in HRM are of critical importance to HRM and staff have undertaken preliminary discussions with the Metro Chamber of Commerce and the GHP to work together to understand the true relative tax burdens and to consider alternatives to the present system. The 2004/05 business plan includes this project. Whatever the outcome of this work two things are certain: 1. HRM has little or no legislative ability to address the underlying equity issues in the property assessment system; 2. The tax burden on large industrials cannot be discussed without including the Provincial tax burden relative to other provinces and the level of Provincial program costs included in the municipal tax bills (nearly 20% of the HRM property tax bill relates to Provincial Education costs.)

4) The Province has not revealed the impact of their own tax decisions on Imperial Oil but is suggesting that HRM's property taxes are the deciding factor in the economic decision of the refinery staying in NS. Provincial tax revenues, however, from large industrials like Imperial Oil will increase this year due to several factors:

- At the same time it was providing Imperial Oil with relief from property taxes in HRM, the Provincial Government was increasing the corporate capital tax rate by 33% (from 0.3% to 0.4%). Presumably, one of the key purposes in providing assessment relief to Imperial is to allow the Province to quietly increase its own taxes. All this is done under the guise of job protection. The total increase in the capital tax is worth $20 million to provincial coffers. The Imperial portion has not been released.

- In addition, under income tax law, corporations can fully deduct property taxes. Now that property taxes have been artificially lowered, Imperial will have to pay higher Federal and Provincial income taxes. HRM has estimated these increased income taxes at $1.2 million. Presumably, these higher tax revenues formed part of the Province's thinking in pushing forward a change to its own assessment system.
- Pump prices continue to escalate. According to Provincial information, the retail price of gasoline several weeks ago at budget time was 86.9¢. Since then the price has soared to 93.9¢. The extra 7¢ will net the Province an estimated $9 million annually in additional HST revenues.

Perhaps even more alarming than the specific impacts from this most recent piece of legislation is the willingness of the Province of Nova Scotia to take steps which are contrary to their own legislation and policy direction regardless of the impact on the other taxpayers in the region and on the long-term viability of the HRM. These actions indicate a lack of understanding of the need for the Province to work with the municipality whose residents and commercial businesses contribute the single largest economic impact in the Province to ensure that all decisions have long-term benefit. If HRM is simply used as a means by the Province to provide provincial subsidies and grants the Province's own revenue stream cannot support, the negative impact will be felt by all taxpayers in the Province.

Lastly, the seriousness of the present environment is perhaps best described by Standard and Poor's rating agency who indicated after HRM's first bond rating report that the threat to HRM by provincial downloading negatively impacted the HRM credit rating. That observation was based on the equalization discussions several years ago. One can only conclude that this recent turn of events will have a further impact on the HRM's credit stability and highlights that this is not simply a case of bad relations between the two levels of government, but the mis-use of the legislative power held by the Province of Nova Scotia against it's largest Municipality.

The implications of this legislation far exceeds the direct one-year monetary impact. The willingness of the Province to reach into municipal property tax revenues in order to balance it's own budget indicates that the time has come for a substantive discussion about the benefits of strong, viable municipal units as a foundation to strong communities. The failure of a working relationship between the UNSM, HRM and the Province coupled with the gradual loss of a defensible policy framework for Provincial / Municipal relations is too dangerous for all Nova Scotia residents for it to be allowed to continue.

BUDGET IMPLICATIONS

The 2004/05 budget assumed increased revenues of $2 million dollars from the increase in assessment value at the Imperial Oil refinery. This was on the basis of discussions with Provincial staff who indicated increased revenues of $3 million. The day that the HRM budget was approved, the Minister of Service Nova Scotia & Municipal Relations confirmed HRM's budget assumption to the CAO and advised the CAO that this confirmation could be made public. This legislation will set the increase at no more than $1.4 million, a subsidy of slightly more than $600k annually. Based on planned capital expansions at the Dartmouth refinery, the proposed tax formula could result in additional incremental annual subsidies.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

None

ATTACHMENTS

None

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Bruce Fisher, Manager, Financial Planning 490-4493

Catherine Sanderson, Manager, Revenue 490-6470

Report Approved by: ______________________