

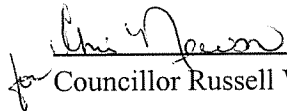
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Halifax Regional Council
February 22, 2005

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
for Councillor Russell Walker, Chair, HRM Grants Committee

DATE: December 6, 2004

SUBJECT: Tax Exemption: Commercial Day Care Operators

ORIGIN

This report originates with a letter dated June 23, 2004, to Mayor Kelly and members of Regional Council requesting the municipality's implementation of a revision to the Municipal Government Act (1998) that authorizes municipalities, at their discretion, to provide a partial tax exemption to commercial day care operators. Specifically, the amendment permits conversion from the commercial to the residential tax rate. The HRM Grants Committee meeting of January 10th failed to reach a quorum by one due to illness, but the consensus of those present was to present the report to Council in a timely manner.

RECOMMENDATIONS

Staff recommend that Regional Council:

1. Decline the request to provide partial tax exemption to commercial day care operators in HRM.

BACKGROUND

Staff have reviewed the issue of public tax subsidies to commercial day care operators within the context of taxation policy and priorities - not as a day care policy matter.

Municipal Mandate: HRM does not have a jurisdictional mandate in child care, child development, or private education. Any assistance to commercial day care operators would be discretionary; a new initiative that will divert funds from other aspects of our operations. Using the double-entry principle, would funds be re-assigned from existing programs or would future initiatives be postponed, cancelled or reduced in scope so as to assign funding to commercial day care?

Municipalities have been excluded from the national child care strategy and do not receive any portion of the federal funding. The Province of Nova Scotia is expected to receive significant funding over 5 years to enhance, not replace, provincial funding.

Municipal Priorities: Presently, HRM provides a number of tax assistance programs to low income homeowners and registered non-profit organizations and charities. These existing programs are faced with increased demand, the need to target municipal assistance to areas of higher need, and requests for additional programming to address unmet needs such as tax rebates for property loss, assistance for low income homeowners who cannot afford to remediate property violations, or an inability to pay local improvement charges.

DISCUSSION

Equality

The proponents requesting a public tax subsidy for commercial day care operators have asserted "...our families should be treated the same as those who attend non-profit day care centres." Staff assert that a reduction in property tax will not create 'sameness' or eliminate inequities or differences between non-profit and commercial operator, or within each respective sector.

As shown in the illustration below, if the intent of public subsidies to commercial day care operators is meant to "level the playing field" among service providers, a combination of changes would be required including legislative and policy changes. Arguably, the major anomaly is the payment of the business occupancy tax in addition to commercial property tax by commercial day care operators. See **Attachment 1** for details.

Affordability

Commercial day care proponents have suggested that tax savings would be re-invested in operations but there is no assurance that such re-investment would result in reduced rates for clients. Likewise, tax subsidies to non-profit organizations are not linked to specific outcomes. What constitutes 'affordability' is ambiguous: the amendment to the Municipal Government Act (1996) does not target assistance to low income families or by family composition (number of children, age, special needs, availability or proximity, etc). In contrast, the provincial system of subsidized placements is able to target public funding to individual families in accordance with established eligibility criteria. Both commercial and non-profit day care operators can access subsidized placements to assist low income customers.

Diagram 1: Significant Variance Exists in Property Tax Obligations as a Result of Provincial Legislation and Assessment System: Non-Profit and Commercial Day Care Operators.

Type of Daycare	Non-Profit 100% Exempt by Legislation	Non-Profit 100% Exempt by Assessment Services	Non-Profit 100% Exempt by Renting from a Non-Profit	Commercial Operator 100% Exempt by renting from a Non- Profit	Non-Profit 75% Exempt Municipal By- law T-201 Owner Occupied	Unlicensed Commercial Operator	Non-Profit Renting in Private Property	Commercial Operator
Tax Status	Pays no tax	Pays no tax	Pays no tax	Pays no tax	Pays 25% of Residential Tax	Often Pays Residential Tax	Pays Commercial Tax	Pays Business Occupancy & Commercial Tax
Features	Provincial Federal	Location: Church School University College Government	Assessment Act	Location: Church School University College Government	Owner occupied or separate tax account billing	Difficult to Detect	Exempt Business Occupancy Tax by Assessment Services	Assessment Act
Legislative Basis	Municipal Grants Act	Assessment Act			By-law T-200 MGA	Detection	Assessment Act	Assessment Act MGA

Assessment Data

- Using the 2004-05 tax roll, staff have identified a total of 132 day care operators; 88 commercial operators (67%) and 44 non-profit operators (33%). Assessment classification varies on a case-by-case basis and includes commercial, residential, exempt commercial, and business occupancy.
- Non-Profit Day Care:* Of the 44 non-profit day care centres, 12 (27%) are provided with a public subsidy through By-law T-201 for a combined exemption value of \$90,131 but the majority (38%) are exempt commercial tax through Nova Scotia Assessment Services. Typically, their properties are located in churches, private schools, or government-owned

buildings. However, non-profit organizations renting in private property usually pay their proportional share of commercial tax as part of their base rent (15 accounts). Business occupancy tax is not levied if the organization submits proof of society or charitable status to Assessment Services.

- *Commercial Day Care:* A majority of commercial operators (69%) pay business occupancy tax (at a rate of 50% of the commercial tax value) in addition to a proportional share of commercial property tax. The 61 business occupancy accounts total \$58,944 which suggests that the commercial equivalent is \$117,888 for a combined total of \$176,832. A further 8 accounts pay commercial or a combination of commercial/residential tax (staff estimate approximately \$10,000 in commercial tax).

Conclusion

- The amendment to the Municipal Government Act (1996) does not link public subsidy to an ability pay. Assistance is not targeted to need as evaluated using objective, independent measures (for example, income, family composition, disabled or special needs).
- A public tax subsidy to commercial day care operators will not provide for consistent level of property tax levied between, or within, the non-profit and commercial day care sectors; it fails to address the significant variances in tax assessment permitted under existing legislation.
- A public tax subsidy to a business enterprise sets a precedence.
- Municipalities have been excluded from the national child care strategy, including federal funding to enhance access and standards.

Alternatives

Low income families could be assisted through existing federal and provincial programs such as the federal Child Tax Benefit (linked to income), an HST rebate on child care, increased personal income tax deductions for child care, an increase in the number of subsidized placements for low income families, or revisions to the provincial tax assessment system.

If Regional Council wishes to support child care in HRM through property tax subsidies, the provincial government could be petitioned to recognize early childhood education on a continuum of education. As such, all day care operators could apply for exempt status in the manner as private schools (institutional, curriculum evaluation by the Assessment Division, Service Nova Scotia & Municipal Relations).

If Regional Council wished to pursue the latter approach, there could be a corresponding reduction in HRM's assessment roll and thereby our mandatory contribution to provincial education. Likewise, such tax revenue loss could also be reported under HRM's annual equalization payment submission to the provincial government.

BUDGET IMPLICATIONS

If the staff recommendation is approved there is no impact on the budget in 2005-06.

If Regional Council wishes to implement a tax exemption by-law for commercial day care operators in HRM the estimated annual cost is \$187,000-\$200,000 plus additional administrative costs. A precise estimate of cost is not possible without direct contact with property owners to determine the proportional occupancy of a tenant (tax can then be calculated relative to the total assessment value and tax bill).

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

- Regional Council could overturn the staff recommendation and direct staff to develop a new by-law, policy and procedures for the implementation of a tax exemption program for commercial day care operators to be implemented in 2005-06.

The action is not recommended: the budget increase is significant and has not been debated relative to competing municipal priorities, including HRM's existing tax assistance programs.

- Regional Council could advocate for recognition of all day care operators as part of the continuum of education, comparable to the status of afforded some private school operators.

The action is not recommended unless there is a corresponding reduction in HRM's mandatory education contribution and/or recognition under the equalization payment calculations provided under the authority of the Municipal Grants Act.

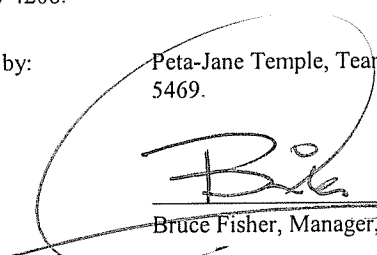
ATTACHMENTS

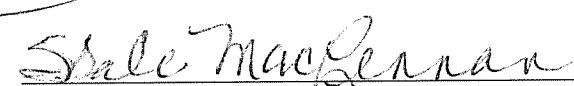
Attachment 1: Differences in taxation status among non-profit and commercial day care providers in HRM

Attachment 2: Letter from Peta-Jane Temple to Crystal Day Care dated November 5th, 2004 (No reply to date).

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: Peta-Jane Temple, Team Leader Tax, Grants & Special Projects, HRM Financial Services 490-5469.

Approved by: 
Bruce Fisher, Manager, Financial Planning, HRM Financial Services


Dale MacLennan, Director, Financial Services

Attachment 1.

Differences in Tax Status Among Non-Profit and Commercial Day Care Operators in HRM.

- Unlicensed private operators with <6 children - no assessment. Pay residential tax by default if home-based or commercial tax if rental in commercial property.
- Non-profit 100% tax exempt by virtue of an Act of the Nova Scotia Legislature or an Act of Parliament.
- Non-profit 100% commercial exempt by virtue of assessment and location (church, private school, university, college, provincial or federal government property).
- Non-profit 100% tax exempt by virtue of renting from non-profit organization or government agency who owns and/or operates a property (includes municipal facility management agreements and leases in HRM-owned buildings that are not registered and no tax account created).
- Non-profit 75% tax exempt by virtue of discretionary municipal subsidy under By-law T201.
- Non-profit pays commercial tax by virtue of renting a private property (apartment building, condominium, mall, industrial park, commercial or industrial site, private property owner.)
- Licensed commercial operator pays commercial and business occupancy tax.
- Licensed commercial operator 100% tax exempt by virtue of location (church, private school, university, college, government property).

Private day care operators who care for less than six (6) in their homes are not assessed for commercial or business occupancy tax; these operators pay residential tax irrespective of the relative profitability of their business. Nova Scotia Assessment Services does not have the ability to detect such operators because their licensing is not required. These **operators pay residential tax by default - not policy**. Typically, such small operators also avoid the additional costs associated with licensing's mandatory standard.

Not all registered non-profit organizations receive a municipal tax subsidy under the Tax Exemption for Non-Profit Organizations Program (By-law T201): only those who are the party billed for property tax. Typically, the party billed for tax is the property owner but in some cases a landlord will agree to a separate billing for the tenant. Some non-profit groups and charities rent space in buildings owned by commercial or private interests; taxes may be collected as part of the base rent or inconvenience associated with separate billing. Consequently, **some non-profit groups and charities are paying full commercial property tax for their proportional share of the premises they rent.**

Not all registered non-profit organizations are assessed for property tax. Typically, these groups are either exempt commercial by Nova Scotia Assessment Services (churches, private schools, etc), exempt because they rent space in a government building, or exempt under an Act of the Nova Scotia Legislature or Canadian Parliament (eg. YMCA, YWCA).

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November 5, 2004

Taxation Committee
c/o Crystal Day Care
60 Highfield Park Drive
Dartmouth, NS B3A 4R9

Attention: E. Chaisson, M. Bellefontaine, M. Raymond

Re: Property Tax Subsidy for Private Daycare Centres in HRM

Further to your presentation to the HRM Grants Committee I am writing in response to the attachment to your letter of June 23, 2004 to Mayor Kelly and Regional Council entitled "Summary of Points: Equitable Tax Adjustment for Licensed Private Daycare Centres". For clarity I will reference the numbers in your listing:

1) "Licensed not-for-profit daycare centres currently enjoy not paying any business occupancy taxes".

The reason for not paying business occupancy taxes is because these organizations are structured as volunteer/staff operations which do not accrue 'profit' for individuals or shareholders. They are not a business and as such are not taxed in the same manner as a commercial or entrepreneurial enterprise. This is a function of the Assessment Act and is a correct interpretation of the legislation.

2) "Licensed not-for-profit daycare centres enjoy high levels of funding from the Provincial government"

In the absence of quantitative data to substantiate this claim, it appears to be simply a statement of opinion and one I suspect would be challenged by the non-profit sector, especially those non-profit daycares which have recently closed in HRM. What constitutes "high"? What is this judgement using as a basis of comparison?

3) "Unlicensed daycare providers do not pay any business property taxes, as it is very difficult for the tax assessors to assess them".

The relevance of this statement is not self-evident. As stated, the issue is one of the ability of the provincial assessment department to identify and monitor un-licensed operators. The consequence of this issue is felt by all residents of the municipality (in terms of avoidance of applicable taxes) and the impact is not unique to commercial daycare operators. How would providing a tax subsidy to commercial daycare operators correct this situation?

4) "Private group homes/small options do not pay any business taxes".

This classification is a consequence of the purpose for which the property is used and is not a function of the ownership or income generated. The assessment is correct in that the property is a "permanent place

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of residence" (a home) and qualifies as Residential on this basis alone. This is an assessment classification and is in accordance with the Assessment Act. For further details, staff prepared an information report for Regional Council dated October 28th, 2002. A copy of this report can be obtained through the Office of the Municipal Clerk.

5) "Private schools do not have to pay any business taxes"

This is a function of provincial assessment; private schools are required to send a copy of their curriculum to the Assessment Services Office who determine if they qualify for exemption as a school (I understand this is based on a review of curriculum). Some schools may qualify for federal charitable registration and as such would be exempt business occupancy tax as a non-profit organization.

6) "The primary source of revenue for licensed private daycare centres is parent fees, which are currently at a maximum rate. We do not feel that parents can absorb any more as it would drive them into the underground economy"

I think the implied argument in this statement is that property taxes are paid from user fees and that it would be parents who would benefit from a tax subsidy in terms of a reduction in fees. Is the intent to transfer the tax saving directly to parents in the form of a reduction in fees? Would this be 100% of the tax subsidy saving or part? How would centres prove that the savings were passed on to parents and not used for some other purpose such as property repairs, utilities, wages etc?

7) "Revenue implication is negligible to municipalities given the low number of licensed private daycares in most municipalities".

The issue from the perspective of staff is not simply one of cost - although we are required to determine what the annual cost would be to HRM and what program or service would be reduced or cut so as to cover this cost. It seems unlikely that this cost would be covered by increasing the general tax rate, as such the funds would have to come from an existing program, or by reducing our investment in other areas.

I would not expect much support for proposing a cut in other program and service areas which do fall within the municipality's area of responsibility. Therefore, I think it is likely that the cost would have to be covered from other discretionary spending areas.

Also, the issue is not simply one of cost but also of municipal responsibilities, priorities, and the responsibility of the federal and provincial governments in early childhood education. The municipality does not receive any of the federal government's funding - this is transferred to the provincial government and there are concerns that the full amount of federal funding may not be reaching its intended beneficiary in a direct, accountable manner.

8) "Provincially, private bed and breakfasts were recently granted a business occupancy tax exemption."

This statement is incorrect: the Hotel Regulations Act applies commercial and business occupancy tax to bed and breakfast accommodations with more than 4 bedrooms. Compliance with the legislation is monitored through the provincial tourism and assessment departments.

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9) "Our services are recognized within our communities to be of extremely high quality and are said to be an added attraction for new families looking for places to reside or work. We add to the overall residential and business community capacity of our neighbourhoods".

I doubt there is any opposition to the provision of daycare services from any sector of the community; however, the issue is not one of their respective value but of the jurisdictional responsibility for funding such services.

The descriptor "...of extremely high quality" is a value judgement and one that has been challenged in the research on child care. There are probably differences *within* both the commercial and the non-profit sector in terms of quality care, as well as differences *between* the sectors. For example, a study using data from the national "You Bet I Care!" study suggests there are differences in organizational structure, motives, staffing and compensation that are associated with different standards of care. Overall, the study suggests that "...commercial centres as a group tend to provide lower quality programs" ("By default or design: the child care auspices debate", pages 6-7).

Evidently, there is a very central distinction to be made as to the extent to which differences are a function of funding or a consequence of organizational structure and training. An increase in funding does not guarantee improved access to quality care or improved standards of care.

I am sure your membership is aware of such research findings and it would be of assistance to me to have their collective response to such research observations. *Is the difference in standards between for-profit and non-profit operators simply a consequence of access to government funding and other resources, or are their other factors?* How would a municipal tax subsidy improve or maintain standards?

To conclude, "Research in Canada and the US has consistently found that, as a group, non-profit centres obtain higher scores on measures of quality than do commercial centres". There seem to be two possible explanations offered (a) access to government funding and (b) differences in organizational goals which lead to different practices (qualifications of staff, staff-to-child ratio, staff pay) [Doherty & Associates Inc, Ontario, 2001].

10) "Licensed private child care programs provide services to families from various income levels".

I think this statement relates to the provincial child care subsidies which used to be assigned to a specific facility (perhaps in neighbourhoods or catchment areas with a specific demographic profile) and that are now transferable to the parent's service of choice.

Is there data to compare the socioeconomic composition of private daycare facilities as compared to non-profit daycare centres?

11) Both sectors can access government funding for special needs children.

Again, is there any data to compare the attendance of special needs children in private daycare facilities as compared to non-profit operators?

12) "There are no longer designated low-income centres".

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Does this suggest that because low income parents may choose a private operator that such commercial operators should be provided with a public subsidy because some of their clients may be low income? Is it the intent of private operators to pass along any tax savings to all parents or would they reduce fees according to family income?

13) "Licensed private daycare centres are businesses that are not-for-profit. At the end of the year we can assure you that there are no reserved earnings carried over for the next year".

This statement seems to try and match a business operator's profitability with a public obligation or responsibility to subsidize. How would we avoid subsidizing parties who are not able to manage their operations in a financially responsible manner? The profitability of a business need not be a consequence of government subsidy but could also be a result of competition, poor management practices, trends, demographics etc.

14) "Both sectors follow the same regulations and rules but do not have access to the same level of resources".

Access to resources is taken in this context to be access to public subsidy. If the non-profit operator is at a distinct advantage, what would prevent an operator from registering as a non-profit? What is the incentive for a private business operation?

15) The access of for-profit operators to government grants and subsidies is a federal and provincial matter as it relates to the impact on the cost of government subsidies for low income families. How does the cost of a municipal tax subsidy help low income families reduce their child care costs; rather than help other levels of government reduce their direct costs?

16) "There are licensed daycare programs in educational institutions and churches that do not pay any commercial or business occupancy taxes".

Agreed. The legislation that applies to these entities is different from that which is applied to registered non-profit daycares; although some of the operations in churches and institutions may have a charitable or non-profit registration.

First, daycares in public institutions. We have on our tax roll several daycares located in universities and military bases that do not pay taxes. This falls under an Act of the Provincial Legislature known as the Municipal Grants Act whereby properties owned and operated by the federal or provincial government do not pay taxes based on the property's assessed value and the municipal tax rate but instead pay a "grant" to the municipality. HRM does not have control over this process and it is at the government's discretion to determine what they feel is the value of the property and whether or not they pay.

Second, the provincial legislation known as the Nova Scotia Assessment Act makes specific reference to churches and property tax. A "place of worship" is fully exempt tax - which clearly a daycare is not. A residence for the church's staff (manse, rectory etc) is taxed at the Residential tax rate. **A church hall is only exempt commercial tax if the net annual income is less than \$100.** It is for the provincial assessment services to identify, assess, and monitor the compliance of churches in accordance with the legislation. HRM has no powers, except to appeal in cases where we feel the operation is generating revenue in excess of the permitted allowance or incorrectly assessed (market value, category etc).

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In closing, the HRM Grants Committee's primary concern was the inability of the legislation as passed by the province to create uniformity and equity across the province. Evidently, the Board of Directors of the Union of Nova Scotia Municipality's has not had an opportunity to debate this issue and consider alternatives or amendments which might strengthen the approach and increase the chances of achieving its intended aims. It is not clear to me why the province, and private child care operators, did not pursue an exemption - or at least a reduction - from HST.

Has your taxation committee received anything in writing from the federal or provincial governments with an explanation as to why a sales tax exemption was not considered? Your input on this issue would be very helpful...one the municipality might be able to advance in an advocacy role.

Thank you in anticipation of your cooperation.

Sincerely,



Peta-Jane Temple
Grants Program Coordinator

cc: HRM Grants Committee