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Change in “one-third” federal tax exemption for elected officials

A guide for Canadian municipalities

Updated: Fall 2018

A long-standing federal tax exemption for elected municipal office holders will expire on January 1, 2019—reducing their after-tax compensation. This document explains the change and outlines options for municipal governments to consider.

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Federation of Canadian Municipalities
24 Clarence Street
Ottawa, ON K1N 5P3
www.fcm.ca

The issue

A municipal or provincial elected official may be paid a non-accountable allowance for work-related expenses. Under current federal tax law, such an allowance amounting to no more than one-third of the official’s salary-plus-allowances qualifies for a federal tax exemption. Effectively, for many elected officials, up to one-third of their total compensation is currently tax exempt.

Federal legislation passed in 2017 eliminates this tax exemption effective January 1, 2019. This will result in substantive changes to after-tax compensation for provincial and municipal elected officials.

It is up to each individual municipality to decide if and how they will act to counteract the effects of this change for elected officials. Surveys by various provincial and territorial municipal associations have found that many municipalities are opting to fully compensate elected officials for the loss. Other municipalities have not yet made any changes and have told FCM they are not clear on what options exist. This brief guide was developed to assist municipalities in this process.

Timeline

This tax exemption was introduced under the *Federal Income Tax Act* in 1946 to recognize the value of the work of elected officials. It sought to compensate officials who were incurring expenses without being adequately reimbursed. Initially, the exemption applied only to provincial MLAs. In 1953, it was extended to municipal elected officials.

Over the last 15 years, some larger municipalities have opted out of the tax exemption with the stated objective of bringing more transparency to government. For example, Ontario amended its *Municipal Act* in 2001 to provide flexibility to municipalities wishing to do this. Calgary’s city council eliminated its exemption in 2006.

In March 2017, the federal government passed Bill C-44, eliminating the one-third exemption for elected officials, effective January 1, 2019. The change applies to all elected provincial and municipal officials in Canada and will result in substantive changes to their after-tax compensation.

The government justified this change on the basis that it “provides an advantage that other Canadians do not enjoy.” Reimbursements for specific expenses, accompanied by receipts, are not taxable—and this will remain so. In the government’s view, however, a special allowance that does not require receipt accounting *substitutes for salary*, and is therefore a taxable benefit.

In September 2017, FCM adopted a resolution to press the federal government to retain the exemption. FCM engaged with staff in the Department of Finance, and formalized municipal concerns in an October 2017 letter to Finance Minister Morneau, with a follow-up in June 2018. The Minister’s response reiterated the government’s rationale for the change:

... [The] government took steps to bring the tax treatment of non-accountable allowances to municipal office holders in line with that afforded to other employees. An employer may reimburse work-related expenses on a tax-free basis, but non-accountable allowances may substitute for salary and are thus taxable.

Minister Morneau’s letter underlined that the government will not reverse its decision in this matter.

Implications

Elected officials who are currently paying income tax on only two-thirds of their total compensation (salary plus allowances) will lose that benefit. As of January 1, 2019, all compensation will be taxed as full income and be subject to deductions for Canada Pension Plan (CPP) contributions. This will decrease after-tax compensation for elected municipal officials.

In a July 2018 news release, Nova Scotia Federation of Municipalities (NSFM) President Geoff Stewart said: “Under the 2019 tax laws, a councillor in a small-to-mid-sized Nova Scotian town ... could see about 10.5 per cent less in their pockets, and 12.9 per cent less for a rural councillor.”

In responding to this change, some communities have decided that an overall increase in total remuneration for elected officials is necessary to fully or partially replace lost compensation. To balance their budgets, municipalities may need to increase property taxes or find off-setting cost savings. The net impact on municipal budgets, will, in many cases, be significant, especially in smaller, less well-resourced communities. Municipalities with limited property tax bases will be disadvantaged as they seek to maintain appropriate levels of compensation, and some may be unable to achieve this.

The FCM letter to the Minister in June 2018 included cost implication data from various PTA surveys:

Municipalities have undertaken efforts to quantify the financial implications of the elimination of the 1/3 non-accountable allowance. The Associations of Municipalities of Ontario (AMO) estimates that the cost increase for a central Ontario municipality with a council of nine and a population of 30,000 will be at least \$28,000, whereas the cost increase for an eastern Ontario county council of seventeen and a population of 77,000 will be at least \$74,000. AMO also estimates that for almost half of Ontario’s municipal governments, a one per cent property tax increase raises only \$50,000 in additional revenues.

Sample calculations from data collected from the 2016 AMANS (Association of Municipal Administrators Nova Scotia) survey showed that for an average Nova Scotia municipal councillor, annual pay would have to be increased by \$3,605.

Options for municipalities

It is up to each individual municipality to decide how they will address this change in federal tax law, and its reduction of after-tax compensation for elected officials. Options to consider include the following.

Option 1: Compensating salary increase (full)

Municipalities could adjust *pre-tax compensation* for 2019 to maintain elected officials' *after-tax* compensation at 2018 levels. Many municipalities have already taken this action. For example, this was the approach recommended by the Nova Scotia Federation of Municipalities.

The **benefits** of this approach are significant. It recognizes the increasing time commitments of complex and varied municipal duties. In doing so, it helps attract a diversity of candidates to municipal level participation (a growing concern). The **costs** of this approach are also significant, requiring offsetting cost-savings and/or increases in property taxes. This is difficult in an environment where municipal budgets are increasingly under pressure from rising expectations and increasing costs for products and services. Many municipalities are already struggling to provide appropriate compensation levels.

To publicly **communicate** the need for pay raises or property tax increases, effective strategies will emphasize the positive aspects of change. *This is about the community protecting hardworking local officials from an arbitrary pay cut imposed by federal legislation without consultation. We would have preferred to see the federal government reverse this change and its impact on local government—but they did not, and so we had to act.*

This complex issue requires special and perhaps direct messaging. Town hall events could be an opportunity to openly share details and answer questions. Elected officials could reach out to constituents on social media platforms and even face-to-face meetings. Early PR briefings for journalists can help get the right messages communicated from the outset.

Option 2: Compensating salary increase (partial)

Municipalities could increase salaries for 2019 to ease, but not negate, the decrease in elected officials' after-tax compensation. As an alternative to a fully-compensating increase, this means **fewer benefits** but also **lower financial costs**.

The reality here is that elected officials will face some personal loss of after-tax income. For municipalities, this will also compound the challenge of attracting many and diverse candidates for elected office. However, if a municipality decides it cannot find savings or revenues to support a fully-compensating salary increase, a partial increase can deliver some of the benefits.

To publicly **communicate** the change, the same logic applies as for Option 1: emphasize the positives of protecting hardworking local leaders from an arbitrary pay cut imposed by federal legislation without consultation.

Option 3: Expanded expense policies

As an alternative—or supplement—to increasing pre-tax salaries, municipalities can develop more comprehensive reimbursement plans for expenses incurred. This could include both the types of expenses and the total amounts of reimbursement available.

Before changing expense policies, municipalities should determine which expenses council members can claim as non-taxable through the Canada Revenue Agency (CRA). For example, expenses that are currently being covered by the income tax exemption could be addressed as an expense to be reimbursed by administrative policy, as are other non-taxable expenses.

According to the CRA, whether or not a benefit is taxable “depends on whether an individual [elected official] receives an economic advantage that can be measured in money, and whether the individual is the primary beneficiary” (as opposed to the municipality as their employer). [This CRA resource](#) outlines both taxable and non-taxable benefits.¹

Option 4: No action

Taking no action effectively decreases take-home compensation for affected officials, with no immediate effect on municipal budgets. This option avoids the immediate need to find cost-savings, contemplate property tax increases, or communicate changes to the public.

Elected officials will face a loss of income, however. This, in turn may discourage participation in municipal administration, especially among youth. This is a real threat for the smaller municipalities that may struggle most to boost salaries—and where even current compensation rates can be a barrier to more inclusive participation.

¹ <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/t4044/employment-expenses-2016.html>

What are municipalities doing?

The Nova Scotia Federation of Municipalities (NSFM) Board passed a resolution in June 2018 recognizing the need to support elected officials in avoiding abrupt changes in remuneration. It recommends that pre-tax compensation for elected officials be adjusted to allow them to maintain the same levels of post-tax compensation after the law takes effect in 2019. Many other municipalities in Canada (including in Ontario and British Columbia) are opting for this solution.

To help in their decision-making some municipalities are retaining consultants or conducting in-house assessments to study their financial situation. As well, some are creating citizens’ committees or committees of council to conduct reviews before making final decisions to move forward.

The federal finance department does recommend that municipalities find out which expenses their council members can claim as non-taxable through the Canada Revenue Agency (CRA), before the changes take effect. For example, certain expenses that are currently being covered by the income tax exemption could be addressed administratively, as are other non-taxable expenses.