

Revitalization Tax Exemptions

A Primer on the Provisions
in the *Community Charter*



Ministry of
Community Services

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REVITALIZATION TAX EXEMPTIONS

Legislation

Section 226 of the *Community Charter* provides authority to exempt property from municipal property value taxes. To use this authority, a Council must establish a revitalization program (with defined reasons for and objectives of the program), enter into agreements with property owners, and then exempt their property from taxation once all specified conditions of the program and the agreement have been met. Exemptions may apply to the value of land or improvements, or both. Councils are free to specify, within their revitalization programs, the amounts and extent of tax exemptions available.

Revitalization tax exemptions are limited to municipal property value taxes (Section 197(1)(a) of the *Community Charter* only) and do not extend to school and other property taxes, such as parcel taxes. An exemption may be granted for up to 10 years.

The authority to provide a revitalization tax exemption is not subject to section 25 of the *Community Charter* (prohibition against assistance to business).

Section 396E of the *Vancouver Charter* also provides the City of Vancouver with authority to provide revitalization tax exemptions.

What is the intent?

Revitalization tax exemptions are a tool that Councils may use to encourage various types of revitalization to achieve a range of environmental, economic or social objectives. A revitalization program may apply to a small area or areas, a certain type of property or properties, a particular activity or circumstance related to a property or properties, or an entire municipality.

Examples of revitalization objectives that could be encouraged through the use of a revitalization tax exemption scheme include:

- *environmental revitalization*
 - encouraging “green” building technology (e.g. a Council could exempt properties that install solar panels to conserve energy);
 - encouraging environmental sustainability (e.g. to revitalize its waterways, a Council could exempt adjacent developments that use “green” approaches to managing storm water drainage, thereby protecting the waterways from pollutants);

- brownfield redevelopment (e.g. to support the revitalization of a brownfield site, a Council could exempt the property while it is being remediated, thereby hastening its redevelopment);
- *economic revitalization*
 - encouraging investment and employment (e.g. to revitalize its economic base, a Council could partially exempt the local pulp mill from disproportionately high industrial taxes, thereby supporting reinvestment into the community and helping to retain jobs);
- *social revitalization*
 - encouraging affordable housing (e.g. to increase the supply of affordable housing, a Council could provide exemptions to commercial buildings that convert their upper floors to affordable housing rental units);
 - encouraging the construction and preservation of affordable rental housing (e.g. a Council could provide exemptions to developers who enter into housing agreements, under section 905 of the *Local Government Act*, to provide or preserve such housing);
- *other types of revitalization*
 - redevelopment for community sustainability, conservation of heritage property, residential “intensification”, neighbourhood rejuvenation, or façade improvements and beautification (e.g. to add to the scope of a more traditional downtown revitalization, a Council could exempt aging business properties that are reconstructed or otherwise reinvigorated).

What is required?

Part 7, Division 7 [*Permissive Exemptions*] of the *Community Charter* provides the general authority for permissive exemptions. The “[Permissive Exemptions](#)” guideline provides an overview of this process and related considerations.

Section 226 sets out the basic requirements for a revitalization tax exemption program:

Requirement (1) - Revitalization tax exemption program bylaw

- Council must establish a revitalization tax exemption program, by bylaw, which must include the following:
 - a description of the reasons for, and the objectives of, the program;
 - a description of how the program is intended to accomplish the objectives;
 - a description of the kinds of property, or activities or circumstances related to the property that create eligibility for exemptions (e.g. apartment buildings that supply car co-op memberships to their residents to promote environmental sustainability);
 - the extent of the exemptions available (i.e. entire properties or portions of properties);
 - the amounts of exemptions, or formulas to determine the amounts, or both; and
 - the maximum term of the exemption, which may not be longer than 10 years.

- Council may also include in its revitalization program bylaw:
 - the requirements that must be met before an exemption certificate may be issued;
 - conditions that must be included in the exemption certificate;
 - provisions for a recapture amount that must be paid if the conditions specified in the certificate are not met.
- A revitalization program bylaw may be different, for different:
 - areas of the municipality;
 - property classes;
 - classes of land and improvements, or both, as established by the bylaw;
 - activities and circumstances related to a property or its uses, as established by the bylaw, and;
 - uses as established by zoning bylaw.
- Before adopting it, Council must consider the revitalization tax exemption program bylaw in conjunction with the objectives and policies as set out under section 165(3.1)(c) [*use of permissive tax exemptions*] of the *Community Charter*. The intent is that Council consider the municipality's overall objectives and policies in relation to permissive tax exemptions, when exercising its revitalization tax exemption powers.
- Council must also, prior to adopting the revitalization tax exemption program bylaw, fulfill the general requirements for public notice as set out under section 94 of the *Community Charter* (section 94 specifies, for example, the requirement for notices to be publicly posted, and published in a newspaper for two consecutive weeks). Section 227 [*notice of permissive tax exemptions*] sets out the *specific* notice requirements in relation to a revitalization tax exemption program bylaw. A revitalization tax exemption program bylaw notice must include a general description of:
 - the reasons for, and objectives of, the program;
 - how the program is intended to accomplish the objectives;
 - the kinds of property, or activities or circumstances that are eligible for an exemption; and
 - the extent, amounts and maximum terms of tax exemptions that may be provided.

Requirement (2) - Agreement with property owner

- Once a revitalization tax exemption program bylaw has been adopted, Council may enter into an agreement with the owner of a property regarding the provision of a revitalization tax exemption. The agreement between the municipality and the property owner may outline requirements that must be met before an exemption certificate is issued, and any other conditions on which the tax exemption will be provided.

- The *agreement* with the property owner provides Council with an opportunity to build on the program bylaw by enabling Council to provide a more specific level of detail regarding the conditions of an exemption as they relate to a particular property. Essentially, the agreement is intended to take the program bylaw to another level of specificity.

Requirement (3) - Tax exemption certificate

- Once all of the requirements established in the *bylaw* and in the *agreement* have been met, a revitalization tax exemption *certificate* must be issued for the property that is the subject of the agreement. This certificate must be issued no later than October 31 in the year before the tax exemption takes effect.
- As soon as practicable, a copy of the certificate must be provided to the assessor. This ensures that any tax exemptions related to a property are taken into account by BC Assessment during the calculation of the taxable value of a property.

What to consider?

Council is not obliged to establish a revitalization tax exemption program. This is a tool that Council may use at its discretion. In addition to the requirement to consider its objectives and policies in relation to the use of permissive tax exemptions (as set out under section 165(3.1)(c) of the *Community Charter*), Council may wish to consider some additional factors in the design of any revitalization tax exemption program, such as:

- What may be the immediate and long-term implications of the exemption program on:
 - *the community* - what are the municipality's objectives for the environmental, economic and social well-being of the community, and how might the exemption program help fulfill such objectives?
 - *the municipality* - what will such an exemption program cost the municipality in terms of lost tax revenue, overhead to manage the program, and other costs (such as any costs associated with servicing a new development)?
 - *the municipality's larger operating environment* - is the exemption program consistent with the BC/Alberta Trade, Investment and Labour Mobility Agreement under which investment distorting subsidies are prohibited?
- What is the "right" amount of tax relief to encourage the desired level of revitalization under an exemption program?
- Is this type of revitalization likely to occur without any tax incentives in place?
- What other benefits might occur as a result of the exemption program (e.g. a tax exemption that partially exempts the local pulp mill from disproportionately high industrial taxes might support reinvestment into the community while helping to retain jobs)?

- Tax shift. How will the program impact the property taxes of other properties in the same assessment class, and the taxes of properties in other classes of assessment?
- Can Council clearly explain its intentions to the public and demonstrate how the program supports municipal purposes? And what does the community think about the proposal?

Frequently Asked Questions

Aren't municipalities required to designate an area to provide revitalization tax exemptions?

Not anymore. Amendments to section 226 of the *Community Charter* (via Bill 35, the *Miscellaneous Statutes Amendment Act (No.2) 2007*) came into effect on May 31, 2007. These amendments broadened the revitalization tax exemption tool in a number of ways, including by eliminating the requirement to designate an area for revitalization purposes. The new broadened tax exemption tool is a much more flexible and adaptable tool that can be used by Council to meet any type of revitalization need.

What will happen to revitalization tax exemption program bylaws and their corresponding agreements and certificates that were in place before the broadened revitalization tax exemption tool came into effect on May 31, 2007?

Transitional provisions (under Bill 35) ensure that all existing revitalization tax exemption program bylaws, and their corresponding agreements and certificates that were in place before the tool was broadened, can continue. However, if a municipality chooses to amend its revitalization program bylaw (to, for example, expand the scope of the types of property that could be exempted), it must comply with the requirements under the new, broadened section 226.

What does the legislation mean in section 226(5)(b) when it says that a program may be different for “different classes of property” and “different classes of land or improvements or both”?

This means that Council may use any criteria to identify the property that will be eligible for tax relief. For example, a class of property might include all the homes that were built before a certain date, or all the buildings that front on certain streets, whereas a class of land may include all contaminated brownfield sites within the municipality. These distinctions are designed to provide Council with the greatest flexibility to determine how best to provide a tax exemption.

What is the difference between “activities” and “circumstances” as specified under section 226(5)(b)(iv) of the legislation?

Under the legislation, a Council could choose to exempt property based on certain types of activities related to a property (such as the distribution of a free bicycle to each resident living in a condominium

building as an incentive to reduce vehicle use), or it could choose to exempt certain *circumstances* related to a property (such as the presence of solar panels on a property that are helping to reduce the burden on the community's energy grid). Essentially, *activities* require property owners to do something to receive an exemption (such as remediate a brownfield site), and *circumstances* require that there be particular conditions or factors related to the property in place that the municipality is interested in promoting (such as whether properties are LEED certified or not). This distinction enables municipalities to apply tax exemptions in the most flexible manner, to meet their individual revitalization needs.

Can a revitalization tax exemption be transferred to a new property owner?

This is a decision for Council. The legislation specifies that a tax exemption certificate must be issued “for *the property*” once all the conditions in the bylaw and the agreement have been met. So the tax exemption applies to the property. However, section 226(6) permits Council to enter an agreement with a property owner respecting the provision of a section 226 tax exemption “and the conditions on which it is made”. One such condition might be that the exemption no longer applies if the property changes ownership.

What's the difference between a section 225 exemption for heritage property and using section 226 to exempt heritage property?

A Council may decide to use either section 225 or section 226 as a way to encourage heritage preservation within the municipality.

If they wish to use section 225, the property must be “eligible heritage property” that meets one of the conditions in section 225(2)(b). For these purposes, heritage property is defined in the *Local Government Act*. In contrast, section 226 provides a way to encourage investment in property with heritage characteristics without using a formal designation process.

A heritage tax exemption exempts property from all property value taxes – provincial and municipal – while a section 226 exemption only applies to the municipal portion. Another important difference is that section 225 does not provide a time limit on heritage exemptions, while section 226 limits the benefit to 10 years. In addition, a heritage exemption bylaw requires the approval of two-thirds of all Council members; a section 226 exemption bylaw requires a simple majority vote. Both section 225 and 226 permit Council to impose conditions under which the tax exemption is granted.

What is the BC/Alberta Trade, Investment and Labour Mobility Agreement (TILMA) and why do municipalities need to consider it when providing revitalization tax exemptions?

TILMA is an inter-provincial trade agreement between B.C. and Alberta that is designed to help eliminate barriers to trade and to enhance the competitiveness and stability of both provinces. The agreement came into force on April 1, 2007.

Although local governments are not parties to the agreement, their measures, including any legislation, regulation, standard, directive, requirement, guideline, policy or program (such as a revitalization tax exemption program), are subject to TILMA. More specifically, Article 12 of the agreement prohibits both the provinces of B.C. and Alberta, as well as their local governments, from providing unfair, investment distorting business subsidies. This means that any revitalization tax exemption provided by a Council must be compliant with Article 12 of the agreement.

Although TILMA prohibits investment distorting business subsidies, it does not prohibit Council from promoting the environmental, economic and social well-being of their communities. Councils are free to use the tax exemption tool in a number of ways to promote various forms of community revitalization, so long as they use the tool in a non-discriminatory, non-distorting manner and in a manner that does not result in investment-distorting subsidies to business.

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