

HALIFAX

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Item No. 14.1.10
Halifax Regional Council
June 20, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: May 30, 2017

SUBJECT: **Proposed Amendments to Administrative Order 2014-001-ADM: Tax Relief for Non-Profit Organizations**

ORIGIN

March 28, 2017 – Regional Council passed a motion that, amongst others things, directed staff to prepare a report to consider amendments to the *Tax Relief to Non-Profit Organizations Administrative Order*, as follows:

1. Direct staff to prepare a report to consider amendments to Administrative Order 2014-001-ADM, the Tax Relief to Non-Profit Organizations Administrative Order, in fiscal year 2017, as set out in the discussion section of the staff report dated February 1, 2017, to address:
 - (a) Incremental pro-rating of late renewal applications with maximum deduction thresholds;
 - (b) Expired lease or license agreements; and that staff return to Council for consideration of the amendments.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (2008)

Section 79(1) clause (av) "Council may expend money required by the Municipality for ...(av) a grant or contribution to....

(v) a charitable, nursing, medical, athletic, educational, environmental, cultural, community, fraternal, recreational, religious, sporting or social organization within the Province,

(vii) a registered Canadian charitable organization.

Administrative Order 2014-001-ADM Tax Relief to Non-Profit Organizations Administrative Order.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt the amendments to Administrative Order 2014-001-ADM, *Tax Relief For Non-Profit Organizations Administrative Order*, as set out in Attachment 2 of this report.

BACKGROUND

- (a) *Incremental Pro-rating of Renewals*: In 2016, chronic and protracted default from the program's renewal of tax relief eligibility provisions prompted a review of the current formula for pro-rating late applications. The review concluded that the standard formula to deduct a day of eligibility for each day late (expressed as the formula 1/365) has a disproportionate impact on properties with high market value. In the alternative, it was proposed that the formula be applied incrementally with maximum deduction thresholds in the first year of default.
- (b) *Expired Lease or License*: With the introduction of Administrative Order 2014-001-ADM the status of leased and licensed property was formally addressed in policy. At present, the program can only accommodate those non-profit tenants billed directly by the Municipality. The feasibility of extending tax relief eligibility to partial occupancy in the market is addressed in a separate staff report.

Development of the current Administrative Order did not anticipate tax relief eligibility would continue after the expiry of a lease or license agreement. Since 2014, there has been an average of ten (10) organizations removed from the program because the landlord/tenant had not negotiated and concluded a renewal prior to the expiry of an agreement. Reluctance to revoke tax relief eligibility has resulted in the creation of a second "stream" whereby consideration is afforded organizations outside the established program; a situation that diverts administrative resources and drives inefficiencies. Continuation of this practice undermines the integrity of a centralized and consistent decision-making process.

This report proposes amendments to Administrative Order 2014-001-ADM (the "Administrative Order"). If approved, these amendments would come into effect as of the date of Regional Council's approval.

DISCUSSION

(a) Pro-Rated Awards: Late Renewal

Pro-rata tax relief is an incentive to recipients of discretionary municipal tax relief to self-manage their continued eligibility. To remain in the program all recipients of tax relief must complete the annual renewal form and remit with a financial statement for the prior year by the stated deadline (March 31). Failure to comply with the program's eligibility criteria compromises continued eligibility and awards may be pro-rated on an interim basis pending removal from the program. To moderate the proportional impact, a maximum deduction threshold is proposed. If approved, a pro-rated deduction of 1/365 begins after 3 months up to a maximum of \$2,500 and doubles after 6 months to a maximum of \$5,000. If default continues into the following fiscal year the maximum deduction threshold is removed and the organization shall be notified by registered mail of intent to revoke eligibility.

The following scenario illustrates the application of this process:

- Total annual tax of \$70,000 represents \$191.78/day (1/365th).
- Pro-rated deduction begins after June 30th.
- 90 days pro-rated deduction (July 1 to September 28) = \$17,260.27 but the maximum deduction threshold would be \$2,500.
- If the renewal application has not been filed after 6 months (as of September 28, 1st) the maximum deduction increases to \$5,000.
- The applicant determines the value of 'penalty' by returning the renewal form and documentation

on time or by responding in a timely manner to the registered letter of notification sent by HRM.

This incremental process is shown below in Table 1.

Table 1. Proposed Incremental Pro-Rating for Late Renewal Applications with Maximum Deduction in Year 1 and 1/365 Formula in Year 2. Eligibility Revoked After 18 Consecutive Months	
Default Timeline: Year 1	Pro-Rating Formula
April 1 to June 30 (3 months)	3-month 'grace' period with \$0 deduction. Notification of pro-rata deductions sent by registered letter.
July 1 to September 28 (6 months)	Pro-rated as of July 1 up to a maximum of \$2,500 per property
September 29 to March 31 (12 months)	Pro-rated as of September 29 up to a maximum of \$5,000 per property
Default Timeline: Year 2	Pro-Rating Formula
April 1 to September 30 (18 months)	Pro-rated 1/365 as of April 1
September 28 th (over 18 months)	Pro-rated award ends September 30 and eligibility revoked. Notification of intent to revoke eligibility sent by registered mail. Organization to be removed from applicable Schedule.

Section 7B of Administrative Order 2014-001-ADM has been replaced by sections 7C and 7D which include the incremental pro-rating of awards for late renewals and is included in Attachment 2 of this report.

(b) Expired Lease Agreements

Under current program policy a "lease" is a written contractual agreement signed by both the property owner and the lessee. Under Section 5A of the Administrative Order the agreement must be for a minimum term of five (5) years with a minimum of three (3) years remaining in the term at the time of the initial application. A minimum term recognizes the investment of municipal administrative resources in the review and approval process and offers some degree of protection from volatility in tenant turnover.

Ultimately, the property owner is responsible for the payment of property tax. By agreement, the landlord may collect all or some portion of tax as part of a fixed monthly rent or according to a pre-determined schedule of charge-backs usually referred to as "additional charges". HST is payable on both the rent and additional charges. It is the owner's discretion how the annual tax is apportioned. A copy of the lease or license agreement is submitted upon application for addition to the program to verify the terms and conditions of occupancy and lease/licensee's obligations with respect to real property tax.

Policy infers that when a lease or license agreement expires, is terminated or not renewed, eligibility for tax relief ceases. This approach is consistent with that of property conveyance: when a non-profit in receipt of tax relief sells or conveys title to another party tax relief ceases as of the date of closing. Tax relief is non-transferable: the award is directly linked to a specific assessment account (ANN#). If a former owner or tenant relocates they must make application for acceptance into the program.

Current policy is silent on the status of a lease or license agreement that includes a holdover clause. A holdover occurs when the term of a lease expires and the tenant does not surrender possession ("vacate"). The agreement may specify if a holdover is permitted and the terms. A conventional lease will specify the duration of the holdover (eg. month-to-month, year-to-year, or a defined period) and any change to the

rental rate¹.

Assuming the holdover provision is under the same terms with respect to the tenant's obligation to pay all or some defined portion of tax, eligibility for continued tax relief could be recognized through an amendment to Sections 5A of the Administrative Order. The proposed amendment does *not* address occupancy in the absence of a lease or license agreement.

- **Section 5A of the Administrative Order is amended by recognizing a contract that includes a holdover clause providing written confirmation of it is provided to the Municipality. Continuation of eligibility shall be for a period of up to three (3) years as of the date the lease or license expired.**
- **In the absence of a holdover clause in the original lease or license agreement, Section 5A shall recognize confirming the approval of a holdover for the lessee or licensee named in the original lease or license agreement. It is the applicant's responsibility, not HRM's, to obtain and submit written confirmation of a holdover.**

Recognizing a holdover represents risk in terms of providing a financial incentive to both landlord and tenant to abdicate their responsibilities in the timely renewal of an agreement prior to the expiry date. Policy could, for example, include financial incentives to reward self-management. Options are included in the Alternatives section of this report.

A minor amendment is proposed to Section 5A(a) to accommodate the timing of application. Policy currently states, "the real property is leased or licensed for a minimum of five (5) consecutive years with a minimum of three (3) years remaining at the time tax relief is initially applied for". Due to the time required to process an application Section 5A(a) is amended to state: "the real property is leased or licensed for a minimum of five (5) consecutive years with a minimum of three (3) years remaining **as of March 31st**".

In summary, the aim of recognizing a holdover clause is to maintain the integrity of a centralized tax relief program and avoid continuation of a parallel but separate process for expired leases removed from the program. The proposed policy amendment does *not* mitigate administrative capacity or relative priority in the management of leases irrespective of ownership: the latter is a separate process outside the scope of the tax relief program.

FINANCIAL IMPLICATIONS

None

RISK CONSIDERATION

Low. Administrative Order 2014-001-ADM includes criteria for tax relief eligibility and pro-rated awards.

Medium. Recognition of a holdover clause in a lease or license agreement of indeterminate duration may prove a dis-incentive to tenants and property owners to negotiate the renewal of an agreement in a timely manner ie. prior to the expiry of the current agreement. Further, protracted negotiations may be encouraged in the absence of any financial implications to the contrary.

COMMUNITY ENGAGEMENT

Not applicable

¹ The rent may increase to compensate the owner whose asset is encumbered by occupancy, to reflect current market conditions, or as an incentive to renegotiate a new lease in a timely manner in accordance with the notice of expiry stated in the agreement.

ENVIRONMENTAL IMPLICATIONS

Not applicable

ALTERNATIVES

1. Regional Council could consider an incremental reduction in the level of tax relief for the duration of the holdover period to provide a financial incentive for timely negotiation of a new lease or license agreement. If Regional Council selects this option, a supplementary staff report would be required to draft proposed amendments for Council's consideration.
2. Regional Council could change the maximum reduction for tax relief from those amounts set out in Table 1 of this report.

This would require amending section 3 of Attachment 2 to strike out the numbers and "two thousand five hundred dollars (\$2,500)" in clause 7C(2)(b) and "five thousand dollars (\$5,000)" in clause 7C(2)(b) and add the number "X" in clause 7C(2)(b) and "Y" in 7C(2)(b).

3. Regional Council could refuse to adopt the amendments. This is not recommended as outlined on the discussion section of this report.
4. Regional Council could reduce the timeline (one year) for notification of a lease or license holdover.

This cation is not recommended: A one-year notification period recognizes that lease agreements in government-owned property require a longer lead-in as compared to market leasing due to the decision-making process. At the municipal level this includes the preparation of a staff report, review by the HRM Grants Committee, and approval by Regional Council.

ATTACHMENTS

1. Proposed Amended Administrative Order 2014-001-ADM.
2. Amending Administrative Order.
3. Incorporating Proposed Changes.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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**Attachment 1
(Showing Proposed Changes)**

**ADMINISTRATIVE ORDER 2014-001-ADM
TAX RELIEF TO NON-PROFIT ORGANIZATIONS ADMINISTRATIVE ORDER**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Halifax Regional Municipality Charter*, 2008 S.N.S. c. 39, as amended, as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order 2014-001-ADM, the *Tax Relief For Non-Profit Organizations Administrative Order*.

Interpretation

2. In this Administrative Order,

- (a) “Council” means the Council of the Municipality;
- (b) “dwelling unit” means a dwelling unit as defined by clause 3(z) of the *Halifax Regional Municipality Charter*, S.N.S., 2008, c. 39, as amended;
- (c) “fiscal year” means the period of time from April 1st of a given calendar year up to and including March 31st of the next calendar year;
- (d) “Government” means the Government of Canada, Government of the Province of Nova Scotia, a corporation that is an agent of Her Majesty in Right of Canada or the Province, a First Nation, the Municipality and a service commission;
- (e) “lease” means a written contractual agreement signed by both:
 - (i) the owner of the real property and the occupant of the real property whereby the lessee has care and control over the real property by mutual agreement in accordance with the terms and conditions of the agreement; or
 - (ii) the lessee of the real property and the occupant of the real property whereby the sublessee has care and control over the real property by mutual agreement in accordance with the terms and conditions of the agreement;
- (ea) “license” means a written contractual agreement signed by the Municipality and another organization whereby the organization has the permission of the Municipality to use or occupy real property in which the Municipality has an estate, right, title or interest in,
- (f) “Municipality” means the Halifax Regional Municipality;
- (g) “non-profit organization” includes:
 - (i) a society incorporated pursuant to the *Societies Act*, R.S.N .S.1989 c.435, as amended,
 - (ii) a non-profit association incorporated pursuant to the *Co-operative Associations Act*, R.S.N.S.1989 c. 98, as amended,
 - (iii) a non-profit association to which the *Co-operative Associations Act* applies,
 - (iv) a not-for-profit corporation incorporated pursuant to the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23, and
 - (v) a non-profit organization otherwise incorporated pursuant to an Act of the Nova Scotia Legislature;
- (h) “service commission” means a service commission as defined by clause 3(bj) of the *Halifax*

Regional Municipality Charter; and

(i) “tax relief” means a grant or contribution provided by the Municipality pursuant to sections 14 and 16 of this Administrative Order.

Application for Tax Relief

3. For an initial application for tax relief, an applicant must provide to the Municipality:

- (a) a copy of its Articles of Incorporation;
- (b) proof satisfactory to the Municipality respecting:
 - (i) the ownership of the property for which tax relief is sought such as a deed, or
 - (ii) the occupancy of the property for which tax relief is sought such as a signed lease agreement or license agreement;
- (c) a complete financial statement for the prior fiscal year of the applicant including:
 - (i) all revenues and expenses, assets and liabilities of the applicant, and
 - (ii) list of the Board of Directors of the applicant; and
- (d) a description of the program or service provided by the applicant.

4. For a subsequent application for tax relief, the applicant must provide to the Municipality:

- (a) the information required pursuant to clauses 3c and 3d of this Administrative Order; and
- (b) any change of ownership or occupancy relating to the real property for which tax relief has previously been provided.

Eligibility of Non-Profit Organization for Tax Relief

4A. To be eligible for consideration by the Council for tax relief pursuant to this Administrative Order, a non-profit organization:

- (a) shall be one of the following:
 - (i) a charitable organization,
 - (ii) a community organization,
 - (iii) a cultural organization,
 - (iv) an educational organization,
 - (v) a fraternal organization,
 - (vi) a recreational organization,
 - (vii) a religious organization, or
 - (viii) a sporting organization;
- (b) shall be:
 - (i) registered with the Registrar of Joint Stock Companies or with Corporations Canada,or
 - (ii) created by a statute that expressly names the non-profit organization; and
- (c) shall own, license or lease real property as set out in sections 5 or 5A of this Administrative Order.

Eligibility of Registered Canadian Charitable Organization for Tax Relief

4B. To be eligible for consideration by the Council for tax relief pursuant to this Administrative Order, a registered Canadian charitable organization:

(a) shall be a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that *Act*; and

(b) shall own, license or lease real property as set out in sections 5 or 5A of this Administrative Order.

Provision of Tax Relief for Owned Property

5. Council may provide tax relief to an eligible non-profit organization or an eligible registered Canadian charitable organization that owns real property that is located within the Municipality.

Provision of Tax Relief for Licensed or Leased Property

5A. (1) An application for tax relief must be made to the Municipality by the March 31st immediately preceding the start of the fiscal year for which tax relief is sought.

(2) Any application for tax relief that does not satisfy subsection 1 is a late application.

(3) An application for the renewal of tax relief that is a late application will result in a reduction of the amount of such relief in accordance with sections 7C and 7D.

(4) Council may provide tax relief to an eligible non-profit organization or an eligible registered Canadian charitable organization that leases or has a license for real property that is located within the Municipality if

(a) (i) the real property is leased or licensed, for a minimum of five (5) consecutive years with a minimum of three (3) years remaining as of the March 31st immediately preceding the fiscal year for which ~~at the time~~ tax relief is initially applied for, and the real property is licensed from the Municipality or leased from

(iA) the Government,

(iiB) another non-profit organization or registered Canadian charitable organization,

(iiiC) another person, or

(ivD) another entity; **and** or

(ii) the real property was licensed from the Municipality, and the license has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the conditions set out in subsection 5 are satisfied; or

(iii) the real property was leased, and the lease has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the real property was leased from

(A) the Government,

(B) another non-profit organization or registered Canadian charitable organization,

(C) another person, or

(D) another entity,

and the conditions set out in subsection 5 are satisfied;

(b) the lease or license requires an eligible tenant non-profit organization or an eligible tenant registered Canadian charitable organization to pay the real property taxes on that portion of the real property that has been leased or licensed to the eligible organization; and

(c) the real property is owned by a non-profit organization or registered Canadian charitable organization and it is leased to another non-profit organization or registered Canadian charitable organization, the applicant is the owner of the property and such owner provides to the Municipality:

(i) the lessee's registration number listed in either the Registry of Joint Stock Companies or the charities listings of the Canada Revenue Agency;

(ii) a copy of the signed lease; and

(iii) the total area the lessee occupies under the lease.

(5) If the lease or license respecting the real property that is the subject of an application for the renewal of tax relief has expired,

(a) the lease or license must have been expired for no more than three (3) years as of the March 31st immediately preceding the start of the fiscal year for which tax relief is sought; and

(b) the applicant must provide to the Municipality written confirmation from the licensor or lessor that

(i) the lease or license contains a provision allowing the lessee or licensee to remain in possession after the lease or the license expired, or

(ii) the lessor or licensor consents to the lessee or licensee remaining in possession of the real property.

5B If clause 5A(4)(c) applies, the amount of tax relief provided to the eligible lessee shall be the lesser of the amount of tax relief provided to the owner of the property or the total amount of the tax relief provided to the owner of the property divided by the area of the property occupied by the eligible lessee.

Pro Rata Tax Relief

6. (1) If tax relief has been provided pursuant to this Administrative Order, the amount of tax relief shall be pro-rated based on the proportional occupancy of the subject real property by an eligible non-profit organization or an eligible registered Canadian charitable organization and the duration of such occupancy during the current taxation year as follows:

(a) that portion of the real property leased, sub-leased or occupied by Government, another person or another entity must be excluded from eligibility for tax relief and the amount of tax relief must be pro-rated based on the proportional share of non-profit organization or registered Canadian charitable organization occupancy, expressed as a percentage for the entire real property;

(b) if any portion of the real property owned by an eligible non-profit organization or an eligible registered Canadian charitable organization for which tax relief has been provided is conveyed to a Government, another non-profit organization or another registered Canadian charitable organization, another person or another entity, the amount of tax relief shall be calculated by,

(i) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(ii) multiplying the result of sub-clause (b) (i) of this clause by the number of days the eligible non-profit or eligible registered Canadian charity organization owned the real property;

(c) if the lease or license is terminated for any reason or expires prior to the end of the current taxation year, the amount of tax relief shall be calculated by:

(i) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(ii) multiplying the result of sub-clause (c) (i) of this clause by the number of days the eligible non-profit or eligible registered Canadian charity organization leased or licensed the real property.

(2) For greater certainty, a vacant portion of the real property that:

(a) is the subject of tax relief that has been provided,

(b) is owned by an eligible non-profit organization or an eligible registered Canadian charitable organization,

(c) is vacant, and

(d) is not otherwise ineligible for tax relief or subject to a pro-rate reduction,

is eligible for tax relief.

7. Where tax relief is provided pursuant to this Administrative Order and the property owner or lessee or licensee terminates the lease or license for any reason or the lease or license expires prior to the end of the fiscal year the amount of tax relief must be calculated by:

(a) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(b) multiplying the result of clause (a) of this section by the number of days the eligible non-profit or eligible registered Canadian charity organization is in possession of the property.

7A Where

(a) the real property is owned by a non-profit organization or registered Canadian charitable organization and it is leased to another non-profit organization or registered Canadian charitable organization; and

(b) tax relief is provided pursuant to this Administrative Order to the eligible lessee; and

(c) the owner of real property is no longer eligible for tax relief or the tax relief is pro-rate;

then the tax relief of the eligible lessee shall terminate.

7B ~~If the application for renewal of tax relief has been filed with the Municipality after the advertised deadline for such applications and the applicant had previously been provided tax relief for the property or one of the properties that is the subject of the application for the prior taxation year, the amount of tax relief for the property or properties that were previously provided tax relief shall be reduced by the 1/365 for every calendar day such application is late. Repeal.~~

First Late Renewal Application

7C. (1) If an application for the renewal of tax relief is a late application and the application for the previous fiscal year was on time, the amount of tax relief for each property that was filed late shall be reduced in accordance with subsection 2 of this section.

(2) If subsection 1 applies, the amount of tax relief for each property that was filed late shall be reduced as follows:

(a) if the application is received on or before June 30th, there shall be no reduction;
or

(b) if the application is received after June 30th and on or before September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th, to a maximum of two thousand five hundred dollars (\$2,500) per property; or

(c) if the application is received after September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th to a maximum of five thousand dollars (\$5,000) per property.

(3) If June 30th or September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

Subsequent Late Renewal Applications

7D. (1) If an application for the renewal of tax relief is the second consecutive late application, the amount of tax relief for each property that was filed late shall be reduced in accordance with the following:

(a) if the application is received on or before the September 28th, tax relief shall be reduced by 1/365 for every calendar day such application is late; or

(b) if the application is received after September 28th, then

(i) tax relief shall be revoked for the fiscal year for each property for which the application is late, and

(ii) the applicant shall be ineligible for tax relief for the fiscal year for each property for which the application is late, and

(iii) if the applicant is listed on any Schedule, the applicant is struck off such Schedule in respect of each late property.

(2) Where September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

(3) If a non-profit organization or a registered Canadian charity organization is struck off a Schedule pursuant to subclause 7D(1)(b)(iii), such organization may apply for tax relief for the next fiscal year providing the application complies with this Administrative Order and if such application is late, section 7C shall apply.

Provision of Tax Relief

8. The provision of tax relief to an eligible non-profit organization or an eligible registered Canadian charity organization is at the sole discretion of the Council.

9. Tax relief for a subsequent taxation year is at the sole discretion of the Council.
10. Any tax relief provided by the Council pursuant to this Administrative Order must exclude that portion of the owned or leased or licensed real property that is used as a dwelling unit for an employee of the eligible non-profit organization or the eligible registered Canadian charitable organization.
11. Tax relief provided by the Council pursuant to this Administrative Order is valid only for the fiscal year in which it was applied for and cannot be awarded retroactively to a prior fiscal year.
12. Tax relief is not transferable including not being transferable to another person, organization, entity or other real property.

Tax Relief - Conversion to Residential Rate

14. The amount of tax relief provided by the Council to an eligible non-profit organization or an eligible registered Canadian charitable organization named in a Schedule attached to this Administrative Order is equal to a conversion of its current tax rate to the residential tax rate.

15. In determining the amount of the residential tax rate pursuant to this Administrative Order:

- (a) the following amounts of real property tax are eligible for tax relief:
- (i) area rates or uniform charge except for a business improvement district area rate;
 - (ii) mandatory provincial contributions; and
 - (iii) the fire protection rate.
- (b) the following amounts of real property tax are not eligible and are excluded from tax relief:
- (i) an area rate levied for a business improvement district,
 - (ii) charges imposed or fixed pursuant to a by-law including a subdivision by-law,
 - (iii) fees, fines or interest owed to the Municipality for arrears on taxes, and
 - (iv) any other amount that is not specified pursuant to clause (a) of this section.

Tax Relief - Reduction of Residential Rate

16. For an eligible non-profit organization or an eligible registered Canadian charitable organization named in Schedules 26, 27, 28, or 30 there is a further reduction of the residential tax rate of those named in:

- (a) Schedule 26 - one hundred percent (100%);
- (b) Schedule 27 - seventy-five percent (75%);
- (c) Schedule 28 - fifty percent (50%);
- (d) Schedule 30 - twenty-five percent (25%); and
- (e) Schedule 29 - zero percent (0%)

Referral by Council

17. The question of the tax relief for a particular property pursuant to this Administrative Order may be referred by the Council to a Standing Committee or to the Council in Committee for a recommendation to the Council on whether to provide tax relief.

Schedules

18. Schedules 26, 27, 28, 29 and 30 attached hereto form part of this Administrative Order.

Done and passed in Council this day of 2016.

Mayor

Municipal Clerk

**Attachment 2
(Amending Administrative Order)**

**ADMINISTRATIVE ORDER 2014-001-ADM
TAX RELIEF TO NON-PROFIT ORGANIZATIONS ADMINISTRATIVE ORDER**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Halifax Regional Municipality Charter*, 2008 S.N.S. c. 39, that Administrative Order 2014-001-ADM, *Tax Relief For Non-Profit Organizations Administrative Order*, is further amended, as follows:

1. Clause a of section 5A is amended as follows:
 - (a) adding the words and number “as of the March 31st immediately preceding the fiscal year for which” after the word “remaining” and before the words “at the”;
 - (b) striking out the words “at the time” after the newly added word “which” and before the words “tax relief”;
 - (c) adding the words “and the real property is licensed from the Municipality or leased” after the comma and word “for,” and before the word “from”;
 - (d) striking out the word “and” after the semi-colon at the end subclause iv;
 - (e) adding the word “or” after the semi-colon at the end of the subclause iv;
 - (f) renumbering clause a as subclause i of clause a;
 - (g) renumbering subclauses i, ii, iii, iv of clause a as articles A, B, C, and D of subclause i of clause a;
 - (h) adding subclauses ii and iii of clause a after the newly renumbered subclause i of clause a as follows:
 - (ii) the real property was licensed from the Municipality, and the license has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the conditions set out in subsection 5 are satisfied; or
 - (iii) the real property was leased, and the lease has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the real property was leased from
 - (A) the Government,
 - (B) another non-profit organization or registered Canadian charitable organization,
 - (C) another person, or
 - (D) another entity,
2. Section 5A is further amended by
 - (a) renumbering the section as subsection 4 of section 5A;
 - (b) adding subsections 1, 2, and 3 before the newly renumbered subsection 4 as follows:

- (1) An application for tax relief must be made to the Municipality by the March 31st immediately preceding the start of the fiscal year for which tax relief is sought.
 - (2) Any application for tax relief that does not satisfy subsection 1 is a late application.
 - (3) An application for the renewal of tax relief that is a late application will result in a reduction of the amount of such relief in accordance with sections 7C and 7D.
- (c) adding subsection 5 after the newly renumbered subsection 4 and before section 5B as follows:
- (5) If the lease or license respecting the real property that is the subject of an application for the renewal of tax relief has expired,
 - (a) the lease or license must have been expired for no more than three (3) years as of the March 31st immediately preceding the start of the fiscal year for which tax relief is sought; and
 - (b) the applicant must provide to the Municipality written confirmation from the licensor or lessor that
 - (i) the lease or license contains a provision allowing the lessee or licensee to remain in possession after the lease or the license expired, or
 - (ii) the lessor or licensor consents to the lessee or licensee remaining in possession of the real property.
3. Section 5B is amended by adding the brackets and number “(4)” after the number and letter “5A” and before the bracket and letter “(c)”.
 4. Section 7B is repealed.
 5. Sections 7C and 7D are added after the repealed section 7B and before section 8 as follows:

First Late Renewal Application

7C. (1) If an application for the renewal of tax relief is a late application and the application for the previous fiscal year was on time, the amount of tax relief for each property that was filed late shall be reduced in accordance with subsection 2 of this section.

(2) If subsection 1 applies, the amount of tax relief for each property that was filed late shall be reduced as follows:

(a) if the application is received on or before June 30th, there shall be no reduction;
or

(b) if the application is received after June 30th and on or before September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th, to a maximum of two thousand five hundred dollars (\$2,500) per property; or

(c) if the application is received after September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th to a maximum of five thousand dollars (\$5,000) per property.

(3) If June 30th or September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

Subsequent Late Renewal Applications

7D. (1) If an application for the renewal of tax relief is the second consecutive late application, the amount of tax relief for each property that was filed late shall be reduced in accordance with the following:

(a) if the application is received on or before the September 28th, tax relief shall be reduced by 1/365 for every calendar day such application is late; or

(b) if the application is received after September 28th, then

(i) tax relief shall be revoked for the fiscal year for each property for which the application is late, and

(ii) the applicant shall be ineligible for tax relief for the fiscal year for each property for which the application is late, and

(iii) if the applicant is listed on any Schedule, the applicant is struck off such Schedule in respect of each late property.

(2) Where September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

(3) If a non-profit organization or a registered Canadian charity organization is struck off a Schedule pursuant to subclause 7D(1)(b)(iii), such organization may apply for tax relief for the next fiscal year providing the application complies with this Administrative Order and if such application is late, section 7C shall apply.

Done and passed this day of , 2017.

Mayor

Municipal Clerk

**ADMINISTRATIVE ORDER 2014-001-ADM
TAX RELIEF TO NON-PROFIT ORGANIZATIONS ADMINISTRATIVE ORDER**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Halifax Regional Municipality Charter*, 2008 S.N.S. c. 39, as amended, as follows:

Short Title

1. This Administrative Order may be cited as Administrative Order 2014-001-ADM, the *Tax Relief For Non-Profit Organizations Administrative Order*.

Interpretation

2. In this Administrative Order,

- (a) “Council” means the Council of the Municipality;
- (b) “dwelling unit” means a dwelling unit as defined by clause 3(z) of the *Halifax Regional Municipality Charter*, S.N.S., 2008, c. 39, as amended;
- (c) “fiscal year” means the period of time from April 1st of a given calendar year up to and including March 31st of the next calendar year;
- (d) “Government” means the Government of Canada, Government of the Province of Nova Scotia, a corporation that is an agent of Her Majesty in Right of Canada or the Province, a First Nation, the Municipality and a service commission;
- (e) “lease” means a written contractual agreement signed by both:
 - (i) the owner of the real property and the occupant of the real property whereby the lessee has care and control over the real property by mutual agreement in accordance with the terms and conditions of the agreement; or
 - (ii) the lessee of the real property and the occupant of the real property whereby the sublessee has care and control over the real property by mutual agreement in accordance with the terms and conditions of the agreement;
- (ea) “license” means a written contractual agreement signed by the Municipality and another organization whereby the organization has the permission of the Municipality to use or occupy real property in which the Municipality has an estate, right, title or interest in,
- (f) “Municipality” means the Halifax Regional Municipality;
- (g) “non-profit organization” includes:
 - (i) a society incorporated pursuant to the *Societies Act*, R.S.N .S.1989 c.435, as amended,
 - (ii) a non-profit association incorporated pursuant to the *Co-operative Associations Act*, R.S.N.S.1989 c. 98, as amended,
 - (iii) a non-profit association to which the *Co-operative Associations Act* applies,
 - (iv) a not-for-profit corporation incorporated pursuant to the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. 23, and
 - (v) a non-profit organization otherwise incorporated pursuant to an Act of the Nova Scotia Legislature;

(h) “service commission” means a service commission as defined by clause 3(bj) of the *Halifax Regional Municipality Charter*; and

(i) “tax relief” means a grant or contribution provided by the Municipality pursuant to sections 14 and 16 of this Administrative Order.

Application for Tax Relief

3. For an initial application for tax relief, an applicant must provide to the Municipality:

- (a) a copy of its Articles of Incorporation;
- (b) proof satisfactory to the Municipality respecting:
 - (i) the ownership of the property for which tax relief is sought such as a deed, or
 - (ii) the occupancy of the property for which tax relief is sought such as a signed lease agreement or license agreement;
- (c) a complete financial statement for the prior fiscal year of the applicant including:
 - (i) all revenues and expenses, assets and liabilities of the applicant, and
 - (ii) list of the Board of Directors of the applicant; and
- (d) a description of the program or service provided by the applicant.

4. For a subsequent application for tax relief, the applicant must provide to the Municipality:

- (a) the information required pursuant to clauses 3c and 3d of this Administrative Order; and
- (b) any change of ownership or occupancy relating to the real property for which tax relief has previously been provided.

Eligibility of Non-Profit Organization for Tax Relief

4A. To be eligible for consideration by the Council for tax relief pursuant to this Administrative Order, a non-profit organization:

- (a) shall be one of the following:
 - (i) a charitable organization,
 - (ii) a community organization,
 - (iii) a cultural organization,
 - (iv) an educational organization,
 - (v) a fraternal organization,
 - (vi) a recreational organization,
 - (vii) a religious organization, or
 - (viii) a sporting organization;
- (b) shall be:
 - (i) registered with the Registrar of Joint Stock Companies or with Corporations Canada,or
 - (ii) created by a statute that expressly names the non-profit organization; and
- (c) shall own, license or lease real property as set out in sections 5 or 5A of this Administrative Order.

Eligibility of Registered Canadian Charitable Organization for Tax Relief

4B. To be eligible for consideration by the Council for tax relief pursuant to this Administrative Order,

a registered Canadian charitable organization:

(a) shall be a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that *Act*; and

(b) shall own, license or lease real property as set out in sections 5 or 5A of this Administrative Order.

Provision of Tax Relief for Owned Property

5. Council may provide tax relief to an eligible non-profit organization or an eligible registered Canadian charitable organization that owns real property that is located within the Municipality.

Provision of Tax Relief for Licensed or Leased Property

5A. (1) An application for tax relief must be made to the Municipality by the March 31st immediately preceding the start of the fiscal year for which tax relief is sought.

(2) Any application for tax relief that does not satisfy subsection 1 is a late application.

(3) An application for the renewal of tax relief that is a late application will result in a reduction of the amount of such relief in accordance with sections 7C and 7D.

(4) Council may provide tax relief to an eligible non-profit organization or an eligible registered Canadian charitable organization that leases or has a license for real property that is located within the Municipality if

(a) (i) the real property is leased or licensed, for a minimum of five (5) consecutive years with a minimum of three (3) years remaining as of the March 31st immediately preceding the fiscal year for which tax relief is initially applied for, and the real property is licensed from the Municipality or leased from

- (A) the Government,
- (B) another non-profit organization or registered Canadian charitable organization,
- (C) another person, or
- (D) another entity; or

(ii) the real property was licensed from the Municipality, and the license has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the conditions set out in subsection 5 are satisfied; or

(iii) the real property was leased, and the lease has expired as of the March 31st immediately preceding the fiscal year for which the application to renew tax relief is applied for, and the real property was leased from

- (A) the Government,
- (B) another non-profit organization or registered Canadian charitable organization,
- (C) another person, or
- (D) another entity,

and the conditions set out in subsection 5 are satisfied;

(b) the lease or license requires an eligible tenant non-profit organization or an eligible tenant registered Canadian charitable organization to pay the real property taxes on that portion of the real property that has been leased or licensed to the eligible organization; and

(c) the real property is owned by a non-profit organization or registered Canadian charitable organization and it is leased to another non-profit organization or registered Canadian charitable organization, the applicant is the owner of the property and such owner provides to the Municipality:

(i) the lessee's registration number listed in either the Registry of Joint Stock Companies or the charities listings of the Canada Revenue Agency;

(ii) a copy of the signed lease; and

(iii) the total area the lessee occupies under the lease.

(5) If the lease or license respecting the real property that is the subject of an application for the renewal of tax relief has expired,

(a) the lease or license must have been expired for no more than three (3) years as of the March 31st immediately preceding the start of the fiscal year for which tax relief is sought; and

(b) the applicant must provide to the Municipality written confirmation from the licensor or lessor that

(i) the lease or license contains a provision allowing the lessee or licensee to remain in possession after the lease or the license expired, or

(ii) the lessor or licensor consents to the lessee or licensee remaining in possession of the real property.

5B If clause 5A(4)(c) applies, the amount of tax relief provided to the eligible lessee shall be the lesser of the amount of tax relief provided to the owner of the property or the total amount of the tax relief provided to the owner of the property divided by the area of the property occupied by the eligible lessee.

Pro Rata Tax Relief

6. (1) If tax relief has been provided pursuant to this Administrative Order, the amount of tax relief shall be pro-rated based on the proportional occupancy of the subject real property by an eligible non-profit organization or an eligible registered Canadian charitable organization and the duration of such occupancy during the current taxation year as follows:

(a) that portion of the real property leased, sub-leased or occupied by Government, another person or another entity must be excluded from eligibility for tax relief and the amount of tax relief must be pro-rated based on the proportional share of non-profit organization or registered Canadian charitable organization occupancy, expressed as a percentage for the entire real property;

(b) if any portion of the real property owned by an eligible non-profit organization or an eligible registered Canadian charitable organization for which tax relief has been provided is conveyed to a Government, another non-profit organization or another registered Canadian charitable organization, another person or another entity, the amount of tax relief shall be calculated by,

(i) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(ii) multiplying the result of sub-clause (b) (i) of this clause by the number of days the eligible non-profit or eligible registered Canadian charity organization owned the real property;

(c) if the lease or license is terminated for any reason or expires prior to the end of the current taxation year, the amount of tax relief shall be calculated by:

(i) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(ii) multiplying the result of sub-clause (c) (i) of this clause by the number of days the eligible non-profit or eligible registered Canadian charity organization leased or licensed the real property.

(2) For greater certainty, a vacant portion of the real property that:

(a) is the subject of tax relief that has been provided,

(b) is owned by an eligible non-profit organization or an eligible registered Canadian charitable organization,

(c) is vacant, and

(d) is not otherwise ineligible for tax relief or subject to a pro-rate reduction,

is eligible for tax relief.

7. Where tax relief is provided pursuant to this Administrative Order and the property owner or lessee or licensee terminates the lease or license for any reason or the lease or license expires prior to the end of the fiscal year the amount of tax relief must be calculated by:

(a) dividing the number of days in the calendar year by the dollar amount of the tax relief; and

(b) multiplying the result of clause (a) of this section by the number of days the eligible non-profit or eligible registered Canadian charity organization is in possession of the property.

7A Where

(a) the real property is owned by a non-profit organization or registered Canadian charitable organization and it is leased to another non-profit organization or registered Canadian charitable organization; and

(b) tax relief is provided pursuant to this Administrative Order to the eligible lessee; and

(c) the owner of real property is no longer eligible for tax relief or the tax relief is pro-rate;

then the tax relief of the eligible lessee shall terminate.

7B Repealed.

First Late Renewal Application

7C. (1) If an application for the renewal of tax relief is a late application and the application for the previous fiscal year was on time, the amount of tax relief for each property that was filed late shall be reduced in accordance with subsection 2 of this section.

(2) If subsection 1 applies, the amount of tax relief for each property that was filed late shall be reduced as follows:

(a) if the application is received on or before June 30th, there shall be no reduction; or

(b) if the application is received after June 30th and on or before September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th, to a maximum of two thousand five hundred dollars (\$2,500) per property; or

(c) if the application is received after September 28th, there shall be a reduction of 1/365 for every calendar day such application is late after June 30th to a maximum of five thousand dollars (\$5,000) per property.

(3) If June 30th or September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

Subsequent Late Renewal Applications

7D. (1) If an application for the renewal of tax relief is the second consecutive late application, the amount of tax relief for each property that was filed late shall be reduced in accordance with the following:

(a) if the application is received on or before the September 28th, tax relief shall be reduced by 1/365 for every calendar day such application is late; or

(b) if the application is received after September 28th, then

(i) tax relief shall be revoked for the fiscal year for each property for which the application is late, and

(ii) the applicant shall be ineligible for tax relief for the fiscal year for each property for which the application is late, and

(iii) if the applicant is listed on any Schedule, the applicant is struck off such Schedule in respect of each late property.

(2) Where September 28th falls on a Saturday or Sunday, the deadline shall be extended until the next business day.

(3) If a non-profit organization or a registered Canadian charity organization is struck off a Schedule pursuant to subclause 7D(1)(b)(iii), such organization may apply for tax relief for the next fiscal year providing the application complies with this Administrative Order and if such application is late, section 7C shall apply.

Provision of Tax Relief

8. The provision of tax relief to an eligible non-profit organization or an eligible registered Canadian charity organization is at the sole discretion of the Council.

9. Tax relief for a subsequent taxation year is at the sole discretion of the Council.

10. Any tax relief provided by the Council pursuant to this Administrative Order must exclude that portion of the owned or leased or licensed real property that is used as a dwelling unit for an employee of the eligible non-profit organization or the eligible registered Canadian charitable organization.

11. Tax relief provided by the Council pursuant to this Administrative Order is valid only for the fiscal year in which it was applied for and cannot be awarded retroactively to a prior fiscal year.

12. Tax relief is not transferable including not being transferable to another person, organization, entity or other real property.

Tax Relief - Conversion to Residential Rate

14. The amount of tax relief provided by the Council to an eligible non-profit organization or an eligible registered Canadian charitable organization named in a Schedule attached to this Administrative Order is equal to a conversion of its current tax rate to the residential tax rate.

15. In determining the amount of the residential tax rate pursuant to this Administrative Order:

- (a) the following amounts of real property tax are eligible for tax relief:
 - (i) area rates or uniform charge except for a business improvement district area rate;
 - (ii) mandatory provincial contributions; and
 - (iii) the fire protection rate.

- (b) the following amounts of real property tax are not eligible and are excluded from tax relief:
 - (i) an area rate levied for a business improvement district,
 - (ii) charges imposed or fixed pursuant to a by-law including a subdivision by-law,
 - (iii) fees, fines or interest owed to the Municipality for arrears on taxes, and
 - (iv) any other amount that is not specified pursuant to clause (a) of this section.

Tax Relief - Reduction of Residential Rate

16. For an eligible non-profit organization or an eligible registered Canadian charitable organization named in Schedules 26, 27, 28, or 30 there is a further reduction of the residential tax rate of those named in:

- (a) Schedule 26 - one hundred percent (100%);
- (b) Schedule 27 - seventy-five percent (75%);
- (c) Schedule 28 - fifty percent (50%);
- (d) Schedule 30 - twenty-five percent (25%); and
- (e) Schedule 29 - zero percent (0%)

Referral by Council

17. The question of the tax relief for a property pursuant to this Administrative Order may be referred by the Council to a Standing Committee or to the Council in Committee for a recommendation to the Council on whether to provide tax relief.

Schedules

18. Schedules 26, 27, 28, 29 and 30 attached hereto form part of this Administrative Order.

Done and passed in Council this day of 2016.

Mayor

Municipal Clerk