

GIVING CITIES AND MUNICIPAL TAXPAYERS A BREAK DURING COVID – A “HOW-TO” GUIDE

So far, the response to the current pandemic and the economic consequences from the Provinces have been silent on creative responses to cash-flow issues faced by payers of property tax and by implication, municipalities. Certainly, recent literature has emphasized the “wealth” of municipalities, deficiencies in their accountability to ratepayers, the relatively high effective burden of business taxes and unused capacity of the property tax. (Robson et al, Kitchen and Tassonyi, Tassonyi, Bird and Slack, Dahlby and McMillan) While there is truth in these studies, these should not preclude serious consideration of loosening (within reason) some of the constraints in the local taxation system that municipalities face. These rules were designed to ensure that the system worked to provide revenue on a timely basis. However, the design did not contemplate the level of the pressing plight faced by their businesses and residents.

However, in the context of the current crisis, the Provinces should revisit the provisions in the various pieces of legislation that govern the imposition, collection and mitigation of property taxes.

These include, for example, the rules surrounding instalment payments, the imposition of penalties and the definition of taxes in arrears. Provinces could use their legislative authority to provide municipalities with the option to somewhat loosen the immediacy of payment requirements and the timing of the imposition of penalties.

In terms of mitigation and alleviation of immediate fiscal pressure, provinces could widen the rules surrounding tax deferrals and provide appropriate rules for the security of the deferrals. The current criteria for assistance are very strict. For example, in Ontario, residential ratepayers may seek assistance if the taxes are “unduly burdensome” in the view of the municipality. The Province could provide some guidance that widens this definition, given the exceptional

circumstances facing ratepayers. Such measures would reinforce federal and provincial efforts to enhance “cash-in-the-paw”.

Many provinces also have “anti-bonussing” provisions which forbid direct assistance to businesses to avoid ruinous tax competition. Again, in the current circumstances, these provisions could be reviewed and adjusted to aid in the response to the current crisis.

While it seems unlikely that most municipalities will experience cash flow issues, provinces may also have to revisit the rules surrounding interim short-term borrowing to meet immediate cash needs, including debt servicing and their wage bills. Generally, legislation requires that this form of borrowing be limited to maturities of less than a year and cannot exceed specified levels of taxation. However, this is not a recommendation to allow the capitalization of operating expenditures into long-term debt.

Provinces and the federal government should consider different possible options should the need arise. The Gas Tax Fund Administrative Agreements are a precedent as a way to structure assistance to municipalities facing short-run cash flow difficulties but with appropriate eligibility criteria to be met. These agreements have been tailored to meet individual provincial concerns regarding federal intrusion into a provincial sphere of jurisdiction. They also contain verifiable mechanisms to ensure local accountability. An alternative could be short-term loans from a province or the federal government, again with strict eligibility criteria and a realistic repayment schedule.

In general, municipalities currently have the ability to increase their long-term borrowing for capital as the vast majority have levels of debt or debt service below the provincially regulated benchmarks. However, even these rules may need to be revisited or provincial guarantees may be needed in specific cases.

In so far as regulations are enacted to permit more latitude to municipalities, any measures taken must be reviewed so as to avoid the impairment of municipal fiscal capacity in the long run.
