

Municipality Of Chatham-Kent

Legislative Services

Municipal Governance

To: Mayor and Members of Council
From: Judy Smith, Director, Municipal Governance/Clerk
Date: November 22, 2017
Subject: Removal of Tax Exempt Portion of Remuneration for Council

Recommendations

It is recommended that:

1. The Citizen Review Committee be reappointed to review Council compensation in 2018 including the removal of the tax-exempt portion of remuneration and to set the Council compensation for the next term of Council.
2. A Council compensation report for the 2018-2022 term be brought in December 2018 to the new Council.

Background

Introduced in 1947 under the federal Income Tax Act, one-third of a Councillor's total remuneration may be excluded from income (tax-free). Total remuneration consists of:

- (a) Salaries and honorariums;
- (b) General expense allowance; and
- (c) Mileage or other travel allowance.

Provided that reimbursement for (b) and (c) are not of a non-accountable nature, then these reimbursements can be excluded in determining the maximum one-third expense allowance. The purpose of the one-third tax-free expense was to provide "an allowance for expenses incidental to the discharge of the person's duties as an elected officer".

Currently, Councillors are receiving one-third of their remuneration as non-taxable benefits. In December 2001, the Municipal Act, provided flexibility for municipalities to eliminate the one-third tax free provision. The purpose was to provide greater accountability and to create full transparency as it relates to total remuneration for elected officials. The intent of the changes in the legislation was to eliminate the tax-free allowance, which was also eliminated by a number of provinces including Ontario. As of January 1, 2003, the one-third exemption no longer applies unless Council passes a resolution in each term of Council to maintain it. If a resolution is not enacted, then the one-third portion would become taxable.

There are no provisions in the Act to provide elected officials, on an individual basis, the choice of fully taxable or one-third exempt remuneration. Nor are there provisions for subsequent Councils to reinstate the one-third tax-free provision. However, if a resolution is passed to continue the one-third tax-free provision, then subsection 283 (7) requires that each subsequent Council review the by-law at a public meeting at least once in its' four year term. Since the change in legislation, each term, previous Councils have passed a resolution to maintain the one-third tax-free portion of their remuneration.

In December 2014, this Council confirmed these provisions continue to apply throughout the present term of Council, ending November 2018.

In January 2017, a Council compensation report was brought to Council. At that time Council approved that "A Citizen Review Committee be appointed to review Council compensation every third year of a Council term and to set the Council compensation for the subsequent term of Council."

Comments

The March 22, 2017 Federal Liberal budget included a tax decision to "remove the tax exemptions for non-accountable expense allowances paid to members of provincial and territorial legislative assemblies and to certain municipal office holders. This exemption is only available to certain provincial, territorial and municipal office holders and provides an advantage that other Canadians do not enjoy." The Federal Liberals have decided to eliminate the one-third tax-free benefit for municipal Councils in the next term of Council.

In January 2017, the Citizen Review on Council Compensation Committee surveyed municipalities of comparable size to ensure that the remuneration levels for Mayor and Councillors are competitive. The remuneration reviewed by the Committee included honorarium, variable compensation, committee structure, benefits, pension/RRSP, "end of service" transition and travel/training budget. Several recommendations were proposed to Council. At that time, Council approved increasing the Mayor's annual compensation to \$93,605 beginning for the next term of Council in December 2018. Council did not approve any increase for Councillors therefore leaving the compensation for a Councillor at the current rate.

The examples below show the impact of the removal of the 1/3 exemption with a sampling of various marginal tax rates. The salaries used are the 2019 rate established for the Mayor and the proposed 2018 rates for the councillors. The impact of this change is dependent on an individual's marginal tax rate.

			Example A	Example B	Example C	Example D	Example E
			If Income Is	If Income Is	If Income Is	If Income Is	If Income Is
Role	Annual Salary	1/3 Exempt	42960 to 46605	75657 to 85923	89131 to 93208	144489 to 150000	205842 to 220000
			Marginal Tax Rate is	Marginal Tax Rate is	Marginal Tax Rate is	Marginal Tax Rate is	Marginal Tax Rate is
			24.15%	31.48%	37.91%	46.41%	51.97%
Mayor	93605	31199	7535	9821	11828	14479	16214
Councillor	27700	9232	2230	2906	3500	4285	4798

At each new term of Council, a recommendation report was brought forward and approved to continue the practice of granting the one-third of remuneration tax free against Council remuneration for income tax purposes.

Due to the upcoming changes, it is recommended that the Council Compensation Committee be reinstated in early 2018 rather than the third year of the Council term to prepare for the December 2018 report to the new Council regarding Council Compensation and the effect of the removal of the tax exempt portion of remuneration.

Areas of Strategic Focus and Critical Success Factors

The recommendations in this report support the following areas of strategic focus:

- Economic Prosperity:
Chatham-Kent is an innovative and thriving community with a diversified economy
- A Healthy and Safe Community:
Chatham-Kent is a healthy and safe community with sustainable population growth
- People and Culture:
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- Environmental Sustainability:
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendations in this report support the following critical success factors:

- Financial Sustainability:
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

- Has the potential to support all areas of strategic focus & critical success factors
- Neutral issues (does not support negatively or positively)

Consultation

- Finance
- Human Resources and Organizational Development

Financial Implications

Removal of the 1/3 exemption will incur additional costs for CPP, EHT and OMERS (Mayor only) and the loss of the HST benefit of the tax-exempt portion equates to an annual cost of \$35,862. Further financial implications regarding this will come forward in the report of December 2018.

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