



REGIONAL MUNICIPALITY  
OF WOOD BUFFALO

## Critical Revenue Perspective

### Impact of Bill 21 on the Regional Municipality of Wood Buffalo with respect to Taxation and Assessment

#### (A) Changes to the Taxation Provisions of the MGA

Bill 21, anticipated to be brought before the Alberta Legislature for second reading in the 2016 Fall Sitting, introduces several significant changes to the way municipalities are allowed or required to set their tax rates for various classes of taxable properties. Some of these changes are of particular concern to the Regional Municipality of Wood Buffalo:

#### 1. Limits on a Municipality's Ability to Tax Non-Residential Property

Bill 21, if enacted, would bring a new Section 358.1 into the *Municipal Government Act* (the "MGA") that would cap the ratio between a municipality's highest tax rate on non-residential property, and its lowest tax rate on residential property, at 5:1.

This section includes a grandfathering provision to allow "non-conforming" municipalities who exceed this ratio at the date of first reading of Bill 21 to maintain the tax ratios they had in place at that date. The Regional Municipality of Wood Buffalo (the "Regional Municipality") is a non-conforming municipality, having a tax ratio of approximately 18.3:1 prior to first reading of Bill 21.

Unfortunately, this grandfathering provision provides no real protection to a non-conforming municipality that relies substantially on non-residential property tax revenue, since it speaks only to the **tax ratio**, not to the **actual rate of taxation**.

Another proposed MGA section, the new 354(3.1), states that the actual tax rate for non-residential properties (or tax rates—plural – if the Government allows more than one class of non-residential properties) shall be set as prescribed by regulation. The Government could then, by regulation, require the Regional Municipality to reduce its rural non-residential property tax rate by 10% or 25% or 50%, or even more. Such a regulation could be of general application, or the Regional Municipality could be subject to a regulation targeting it specifically.

## Critical Revenue Perspective

The Regional Municipality collects about \$100 million annually from the non-residential property assessment class -- virtually all of which derives from the land and buildings on the oil sands companies' sites. Any significant curtailment of our ability to raise tax revenue from this assessment class would have a serious negative impact on the Regional Municipality's ability to maintain critical infrastructure and core municipal services.

*Therefore, the Regional Municipality respectfully requests assurance that the Government of Alberta will draft the new regulations contemplated under Bill 21 so as to preserve the ability of the Regional Municipality to maintain the rate of taxation on the Non-Residential assessment class at not more than the current rate for the next five years to and including 2021.*

### **2. Limits on a Municipality's ability to tax Machinery & Equipment**

Although the non-residential property assessment class generates a significant portion of the revenue of the Regional Municipality, it pales by comparison to the Machinery & Equipment ("M&E") assessment class in terms of importance to the Regional Municipality's revenue stream. Approximately 75% of municipal tax revenue (approximately \$600 Million annually) comes from taxes on M&E, which consists almost entirely of operating installations on the oil sands companies' sites.

Under Bill 21, this critical revenue stream for the Regional Municipality would also be subject to the uncertainty of Provincial regulation. The same regulatory power referenced above in discussion of non-residential property tax rates -- new MGA section 354(3.1) - would also allow the Government to put whatever limit it sees fit on the Regional Municipality's ability to set an M&E tax rate. Since M&E taxes represent such a large proportion of our revenue, even a relatively small forced reduction in the rate of M&E taxation (i.e., 5% to 10%) would have a crippling effect on revenues and consequently on our ability to deliver services to our residents. A much larger forced reduction to the M&E tax rate would seriously compromise the Regional Municipality's ability to function at all, at any level of service.

## Critical Revenue Perspective

In considering these potential outcomes of Provincial regulation it is important to recognize that the municipal tax burden on oil sands companies operating in the Regional Municipality is, at most, a very minor factor in their ability to be profitable and successful:

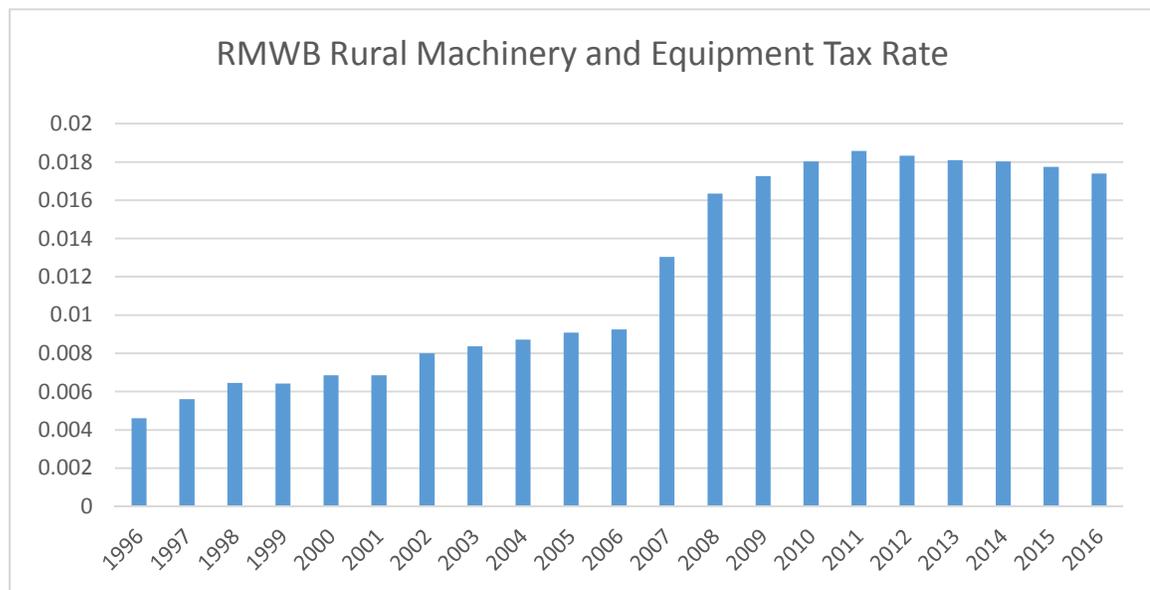
- (a) M&E taxes levied by the Regional Municipality represent only a very small percentage of the total cost of operating oil sands facilities in the region. For most of the oil sands companies, M&E taxes represent well under 5% of their total cost to operate.
- (b) The history of the Regional Municipality's tax rate on M&E clearly demonstrates a track record of keeping that rate as low and as stable as possible, consistent with changing levels of demand for services that have closely mirrored the history of oil sands activity. A key factor in establishing M&E rates was our recognition that our ability to attract citizens to this region is significantly impacted by escalating housing costs. The Regional Municipality's goal in responding to that challenge was to maintain a residential property tax burden broadly similar to that of other Alberta communities of comparable size. In order to achieve that goal, the residential mill rate had to be low in order to compensate for huge increases in assessed values of residences. That in turn necessarily constrained how low M&E tax rates could be.

These extraordinary circumstances are the essential context to the information in the table on the next page. Our joint lobbying efforts with industry, and our interventions in the regulatory process for large new developments, did not result in new or targeted funding from the previous Provincial Government to assist with the enormous costs of building a huge amount of critical infrastructure at an almost feverish pace – something that other communities had far longer to anticipate and grow into. The Regional Municipality had no alternative but to incur these costs. Critical infrastructure is “critical” precisely because it is indispensable to providing a high quality of life for all residents, including thousands of oil sands company employees, thereby greatly enhancing the ability of the companies to attract high quality people who frequently have families that they wish to live with rather than leave behind to be seen only on occasional “fly out” rotations.

## Critical Revenue Perspective

In these circumstances it was to be expected that there would be a period of significant increase in the M&E tax rate, from about 2007 to 2010, which closely correlated with a period of rapid population growth spurred by rapid expansion of the oil sands industry. Lacking any other source of funding for the many new facilities and services that had to be provided, the Regional Municipality had to resort to significant increases to the M&E and non-residential tax rates during that period.

But it is equally important to note that after this period of frenetic growth, the M&E tax rate in the Regional Municipality has remained constant or declined for the past 6 years in a row, from 2011 through 2016. In fact, today's M&E tax rate is virtually unchanged from what it was as long ago as 2009. This reflects our keen awareness of how important it is for the oil sands industry to succeed, not just for this region but for all of Alberta and all of Canada, and the consequent need to keep the industry's municipal taxes reasonable as we strive to meet the needs of our residents who are also their employees.



To summarize on this point, the Regional Municipality is well aware of the difficult situation facing the oil sands companies that has resulted from the steep decline in the price of crude oil. Accordingly, the Regional Municipality will continue to strive to avoid any increase to the M&E tax rate, and indeed will continue the past six-year effort to keep bringing that rate down.

## Critical Revenue Perspective

*Taking into account the critical factors and the commitment set out above, the Regional Municipality respectfully requests assurance that the Government of Alberta will draft the new regulations contemplated under Bill 21 so as preserve the ability of the Regional Municipality to maintain its rate of taxation on the Machinery & Equipment assessment class at not more than the current rate for the next five years to and including 2021.*

### 3. Link between Rural Non-Residential & Machinery and Equipment Tax Rates

For nearly the past 20 years the MGA has required the rural non-residential tax rate to be the same as the M&E tax rate. For the oil sands companies this is not an issue since it merely assures them a single unified rate of taxation. However, this linkage of assessment classes for tax rate purposes also applies to small commercial properties located in rural hamlets, and the impact on them is to make their property taxes much higher than what their urban counterparts pay.

Not only is this terribly unfair to rural small business, it also represents for many of them a cost that is close to being the proverbial straw that broke the camel's back, especially considering the overall economic downturn resulting from the steep decline in the price of oil. It is not an exaggeration to say that the Regional Municipality is at serious risk of losing half or more of its rural small businesses, which would be a devastating blow to the social fabric of these communities.

Fortunately, one of the changes to the MGA under Bill 21 would open the door to eliminating this 20 year run of injustice to rural small business, but only if the Government of Alberta does the right thing in drafting regulations. The Bill 21 provisions would finally eliminate the direct statutory linkage between rural non-residential and M&E tax rates, but they would also preserve the possibility for the grossly unfair status quo to be maintained by regulation

*Therefore, the Regional Municipality respectfully requests assurance that the Government of Alberta, in drafting regulations under the proposed new Section 297 of the MGA, will effect a complete de-coupling of the tax rate for small rural commercial properties from the M&E tax rate.*

If the Government of Alberta will take this simple step, the Regional Municipality will do the rest. We will ensure that small rural businesses pay property tax at no greater rate than their urban counterparts.

## Critical Revenue Perspective

### (B) Changes to the Assessment Provisions of the MGA

Bill 21 includes new MGA provisions to centralize assessments of “designated industrial properties” (which would include M&E) under the Province’s authority, ultimately taking away municipal autonomy over assessment in this regard. This has proved to be one of the most problematic aspects of Bill 21, opposed almost universally by all municipalities with any significant level of industrial property assessment. The Regional Municipality hereby adds its voice to the other municipalities who have urged the Government of Alberta to re-think this initiative.

Here are the basic problems with what Bill 21 would do in this region:

- (a) Assessment of large industrial property is a highly specialized skill, and the Province does not have sufficient people with the skill sets to do it. This means their assessments are likely to be challenged on a regular basis, and this will lead to protracted and costly litigation.
- (b) One of the parties likely to be forced into challenging Provincial assessments of designated industrial properties is the Regional Municipality itself. This newly created property class would account for approximately 90% of the Regional Municipality’s tax base (combined non-residential and M&E) and, as discussed earlier, our ability to adjust tax rates to compensate for declining assessment values will also be significantly restricted under Bill 21. These new assessment provisions will therefore give us no choice but to fight as hard as we can for every dollar of assessment base we can find. Why is that a problem? Because, unlike oil companies when they appeal their M&E assessments, the Regional Municipality will have essentially no knowledge base from which to prepare challenges to Provincial assessments. We will have neither the information of an assessed taxpayer, nor the information of an assessor, yet the Regional Municipality will be the party most impacted of all in terms of percentage of its revenue stream. It is hard to imagine that the Government of Alberta intended to cause such hardship, *but that will be the effect*.
- (c) Changing the identity of who does the industrial assessments will do nothing to address the core problem plaguing such assessments: the

## Critical Revenue Perspective

ambiguities and uncertainties in the poorly drafted Construction Cost Reporting Guide which establishes the rules for how such assessments are to be carried out. Municipal Affairs officials are well aware of these problems, having discussed them on many occasions with the Regional Municipality's assessors and legal counsel.

*In consideration of the foregoing, the Regional Municipality respectfully requests that the Government of Alberta give serious consideration to proposing a second reading amendment to Bill 21 that eliminates the concept of "designated industrial assessment" as well as the initiative to transfer responsibility for assessments of property of that kind to the Government of Alberta.*

## CONCLUSION

The Regional Municipality of Wood Buffalo appreciates the instructions that the Minister of Municipal Affairs has given to her Department to solicit input from a wide variety of stakeholders prior to bringing Bill 21 back before the Legislative Assembly in the Fall Sitting of 2016. We believe that the issues outlined in this Critical Revenue Perspective could significantly and negatively impact our residents, and also those who comprise our "shadow population" as well as the First Nations peoples who live on Reserve lands within our borders and rely on us for a wide range of core municipal services. Our concerns may also be shared by other specialized municipalities.

The Regional Municipality therefore respectfully requests that senior officials from the Department of Municipal Affairs and other stakeholder departments take the time to fully understand these potentially negative impacts before moving forward with a package of amendments to Bill 21, and with regulations drafted to avoid the negative impacts to the Regional Municipality while still accomplishing the Government's policy goals. We would be pleased to participate in further consultations on these matters, including consultations involving senior executives of the oil sands industry, our Rural Stakeholder Group, and the leadership of First Nations in our region.