

# Centralization of Designated Industrial \_\_\_\_\_ Property\_

# What is Included in the DI Property Type?

- Facilities regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the National Energy Board;
- Linear property (pipeline, wells, telecommunications, electric power systems, and railways);

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# Centralization of Designated Industrial Property

#### What is Included in the DI Property Type?

- Property designated as a "Major Plant" by the regulations (the 2017 Alberta Machinery and Equipment Minister's Guidelines);
- Land and improvements associated with property regulated by the Alberta Energy Regulator, the Alberta Utilities Commission, the National Energy Board, and "Major Plants".

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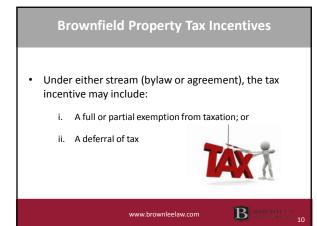


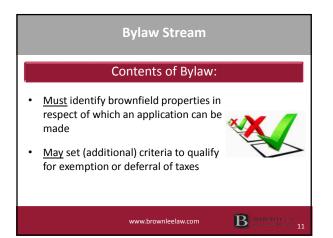


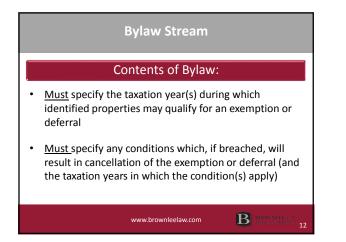


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# Bylaw Stream

#### Procedural requirements:

• Before second reading, Council <u>must</u> give notice of and then hold a public hearing with respect to the proposed bylaw (MGA, sections 606 and 230)

#### Administrative requirements:

• After bylaw is passed, owner of brownfield property identified in the bylaw can apply for an exemption or deferral

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### Agreement Stream – Requirements

- Council may enter into an agreement with the owner of a brownfield property → full or partial exemptions or deferrals of tax
- Agreement must state:
  - Taxation years to which the exemption or deferral applies (not retroactive);
  - ii. Conditions on which the exemption or deferral is granted; and
  - iii. Consequences, rights and remedies arising in the event of any breach

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#### **Agreement Stream – Requirements**

 Before voting on a resolution to enter into an agreement of this nature, Council must give notice of and hold a public hearing with respect to the proposed agreement



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#### **Brownfield Incentives**

#### **Practical Considerations:**

- Council has more direct control over exemptions under agreement stream
  - Downside: investment of Council resources (reviewing agreements, public hearings)
- Bylaw stream may be more efficient but will require more administrative resources
  - Appointment of designated officer, process for vetting applications under bylaw, etc.

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# **Brownfield Tax Incentives**

- Drafting of the conditions in the Bylaw or Agreement are the **key** to the success of the incentive initiative
- Appropriate mechanisms must be in place to ensure that the municipality can enforce the conditions, and if necessary, cancel the Certificate of Exemption or Agreement if conditions are breached

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# Matters Relating to Assessment Sub-Classes Regulation

Alberta Regulation 202/2017

#### Prescribed sub-classes

**2(1)** For the purposes of section 297(2.1) of the Act, the following sub-classes are prescribed for property in class 2:

(a) vacant non-residential property;

(b) small business property;

(c) other non-residential property.

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# Matters Relating to Assessment Sub-Classes Regulation

 "Small business property" means a property within the municipality that is owned or leased by a business that:

- i. Is not a designated industrial property
- ii. Is operating under a business license, or that is otherwise identified in a municipal bylaw

iii. Has fewer than 50 full-time employees across Canada, or a lesser number of employees as set out in a municipal bylaw as of the date established by a municipal bylaw

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Matters Relating to Assessment Sub-Classes Regulation

Tax Rates for "Small Business Property"

- Cannot be less than 75% of the tax rate for the "other non-residential" sub-class
- Cannot be more than the "other non-residential" subclass

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# Matters Relating to Assessment Sub-Classes Regulation

# Criteria for "Small Business Property" sub-class

- What is the maximum number of full-time employees, not to exceed 50 full-time employees across Canada?
- What is the definition of a full-time employee?
- What is the effective date of the counting of full-time employees?
- What is the frequency of the count?
- What evidence is required by the business to substantiate the count?

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# Matters Relating to Assessment Sub-Classes Regulation

#### Identification of "Small Business Properties"

- Data base likely does not exist
- Administrative cost related to building a data base
- Application by taxpayer to be included in the "small business property" subclass
- Deadline must be established for applications
- "Designated Officer" reviews application to determine if "small business property" criteria is met

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# Matters Relating to Assessment Sub-Classes Regulation

#### Implementation of the "Small Business Properties" Sub-Class

- Likely will not be able to implement the "small business property" sub-class until 2019 tax year as lead-time is required to build data base
- Arguable (better view) that legislation requires specific properties to be identified in bylaw

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#### 5:1 Maximum Tax Ratio

- s. 358.1 of the MGA prescribes a maximum tax ratio, whereby the highest non-residential tax rate cannot be greater than 5 times the lowest residential tax rate
- New regulation will specify when non-conforming municipalities must be within the 5:1 maximum tax ratio
- Carefully monitor the status of your tax ratio

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# Provincial Education Requisition Credit ("PERC")

- Applies to oil and gas properties that have had their municipal tax written off
- Retroactive to the 2015 tax year
- PERC operates for 5 years, until the 2019 tax year
- Does not apply to other types of uncollectable municipal property tax

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