
From: Warren Noga <warren@rmaalberta.com>
Sent: November 13, 2024 8:53 AM
To: Warren Noga
Cc: RMA Board Dist
Subject: Update on Unpaid Tax Tool
Attachments: 46657- Letter to RMA on municipal tax issues.pdf

Hello RMA Mayors/Reeves and CAOs,

Please share this email with your council colleagues

Earlier this fall we shared with you a letter from the Minister of Energy and Minerals outlining the creation of a new mechanism for municipalities to request additional support in collecting unpaid taxes from operating oil and gas companies. That initial letter is attached. Following the Minister of Municipal Affairs' comments at RMA's fall convention, we want to provide you with an update.

RMA has been invited by the Government of Alberta (GOA) to work with administrative staff from Municipal Affairs, Energy and Minerals, and the AER to develop a process for municipalities to follow to

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utilize the enhanced enforcement outlined in the letter. This work is underway, however, as the process has not been completed there is no formal mechanism for municipalities to respond to the requirements outlined in the letter. With this in mind, RMA is concerned about the Minister of Municipal Affairs' comments that he hasn't seen any letters from municipalities requesting this action.

RMA is seeking to collaborate with the GOA to develop a mechanism that is administratively easy for municipalities to use that will satisfy the requirements. However, it is unclear what actions will be taken by the GOA to assist in the recovery of unpaid taxes. Additionally, RMA is working with the GOA and AER to ensure that action is taken on any eligible company put forward, regardless of their current financial status or other current AER compliance orders in place. While the commitments made in the letter are not a perfect solution, it is crucial that enforcement action is taken against a company with taxes in arrears regardless of their broader financial and regulatory performance.

RMA will share updates with members on the process with the hope that the outcome will lead to a tool that municipalities can use to improve the collection of unpaid taxes.

Thank you,

Warren Noga, MSc, MPA

Policy Advisor



ALBERTA

Energy and Minerals

Office of the Minister

MLA, Fort McMurray- Lac La Biche

AR46657

August 13, 2024

Mr. Paul McLauchlin, President
Rural Municipalities of Alberta
2510 Sparrow Drive
Nisku, Alberta T9E 8N5

Dear President McLauchlin:

The Government of Alberta takes the issue of unpaid municipal property taxes seriously and expects oil and gas producers to pay their taxes. Alberta's oil and gas industry currently pays about \$1.6 billion in municipal taxes annually. It is clear the vast majority of companies pay their taxes, but we understand why municipalities are frustrated by overdue municipal taxes from a handful of operating oil and gas companies. We share this frustration.

The property taxes assessed to oil and gas companies in Alberta by municipalities under the Municipal Government Act contribute to the sustainability of communities across Alberta, and resolving municipal tax arrears is a complex issue and involves multiple interests. Finding the best balance for both municipalities providing services in their jurisdiction and for oil and gas companies that support jobs and local business while contributing to government revenues requires collaboration among all impacted stakeholders.

In the past ten years, the oil and gas industry has faced multiple global economic challenges and continues to adapt to global challenges, demand cycles, and the energy transition. These have all impacted local governments and the Government of Alberta. Because of recent challenges in the oil and gas industry and the resulting impacts to local government revenues, the Government of Alberta acted to support municipalities by implementing a suite of improvements including:

- The Provincial Education Requisition Credit (PERC) program, which provides municipalities with an education property tax credit equal to the uncollectable education property taxes on delinquent oil and gas properties for the 2015 through 2025 tax years.
- Restoration of a special priority lien in 2021 under Bill 77 for linear property and machinery and equipment, applicable to all a debtor's assessable property within the municipality and giving municipalities priority over other creditors (apart from the Crown and environmental liability obligations) for unpaid taxes.

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Government also provided funding to Rural Municipalities of Alberta (RMA) to develop a resource that would help its members understand how to enforce the special lien.

- Energy and Minerals issued Ministerial Order 043/2023 requiring payment of municipal taxes as a mandatory condition for the approval of new well licences and well licence transfers between oil and gas, which became effective May 1, 2023. Please note: I will be providing additional direction to the Alberta Energy Regulator (AER) on that order to help maximize the number of oil and gas assets that return to municipal tax paying status.

Responsible operators in Alberta must comply with all applicable provincial requirements in order to produce and develop energy resources, including the timely payment of municipal taxes assessed on oil and gas infrastructure. I continue to encourage and support Government and AER initiatives that proactively address unpaid taxes and impose appropriate consequences on the small number of operators who do not comply with tax payment obligations or other provincial requirements. As Minister, I am willing to consider other tools, in cooperation with the AER, to implement further compliance and enforcement actions on companies with significant property taxes in arrears.

You should be aware that, any additional process that are additive to Ministerial Order 043/2023 may place these companies at an increased risk of bankruptcy. This in turn would increase the risk of assets going to the Orphan Well Association which is not required to pay municipal taxes.

With these risks in mind, as part of a contemplated additional process, we would require evidence of due diligence on the part of municipalities to ensure that bad tax debts are written off, current tax debts are accurate, and all available tools are being used in a timely and reasonable manner to collect them. On top of this, the additional enforcement tools would apply only to an individual request submitted by a municipality about an operating company with municipal property tax arrears in excess of \$50,000. Only such arrears that are past due for more than 12 months would be eligible for this additional process.

Before I work with the AER to help a municipality in these situations, I would need the municipality to provide me with a municipal council resolution which must include:

1. the details of the tax arrears,
2. the steps taken by the municipality within its toolkit to collect them,
3. and an unambiguous request to the Minister of Energy and Minerals to employ all available tools to aid the municipality in the tax collection.

The “details of the tax arrears” in the resolution would have to include a legal description of the specific assets (i.e. legal land description of where they are located, serial

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numbers of any assessed equipment and machinery, and such other particulars as may be necessary in the circumstances) in addition to (by asset) the tax amount owing, when the tax was assessed and originally due, and how the tax amount was calculated. The impacted company, my office, and the AER would have to be provided at least thirty days written notice of the council resolution vote.

My ministry will work with the Ministry of Municipal Affairs and the AER to further develop this process in consultation with key stakeholders and municipalities.

To further assist municipalities in communicating the actual realizable municipal tax arrears, I will ask the AER to make available to municipalities a list of companies which have appeared on recent unpaid tax rolls who are not producing or operating in Alberta because of insolvency status. This will allow municipalities to distinguish in their reporting between companies that are operating and not paying their taxes, and companies that are defunct or under court insolvency protections. Correctly distinguishing between those two categories provides a more accurate understanding of the problem.

I have also begun discussions with the Ministry of Municipal Affairs around the policy issue of how municipal tax is assessed on energy assets belonging to companies that are either defunct or going through court insolvency proceedings. Maintaining these assets on the assessment roll has historically served a policy purpose, as the assets have generally come back into production under a new owner. It is possible given the evolving nature of the energy industry and court precedents around asset retirement obligations that this policy purpose can be revisited.

I also invite the RMA to make specific suggestions on how municipalities can effectively communicate information about unpaid taxes with the AER, the Ministry of Energy and Minerals, and the Ministry of Municipal Affairs in support of this process. We all agree that municipal tax information across Alberta should be consistent, accurate, and up to date so that Albertans have the facts.

Thank you for your attention to this issue.

Sincerely,

A handwritten signature in blue ink that reads "Brian Jean".

Brian Jean, K.C., ECA
Minister

cc: **Minister Ric McIver, Municipal Affairs**
Larry Kaumeyer, Deputy Minister Energy and Minerals
Brandy Cox, Deputy Minister Municipal Affairs
Laurie Pushor, CEO Alberta Energy Regulator
David Goldie, Board Chair, Alberta Energy Regulator
Duncan Au, Incoming Board Chair, Alberta Energy Regulator