

### 2017 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors

**Date:** May 31, 2017  
**To:** Executive Committee  
**From:** Treasurer  
**Wards:** All

#### SUMMARY

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This report seeks Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2017 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, totalling approximately \$7.1 million in taxation revenue, of which the municipal share is \$6.5 million and the provincial education share is \$0.6 million.

#### RECOMMENDATIONS

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The Treasurer recommends that:

1. City Council authorize the levy and collection of taxes for the 2017 taxation year on railway roadways and rights of way and on land used as transmission or distribution corridors owned by power utilities, in accordance with subsection 280 (1) of the *City of Toronto Act, 2006* and subsection 257.7 (1) the *Education Act*.

#### FINANCIAL IMPACT

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The 2017 levy of taxes on railway roadways and rights of way and on power utility transmission or distribution corridors will raise approximately \$7.1 million in taxation revenue, of which the municipal share is \$6.5 million and the provincial education share is \$0.6 million.

Comparatively, the total revenue for 2016 was approximately \$7.1 million, of which the municipal portion was \$6.5 million and the provincial education portion was \$0.6 million.

Table 1, below, summarizes the acreage rates prescribed by the Province, the total acreage for each group of properties, and the resulting 2017 and 2016 levy on railway roadways or rights of way and on power utility transmission or distribution corridors.

**Table 1: Levy Amounts for 2017 and 2016 on Railway Roadways or Rights of Way and on Power Utility Transmission or Distribution Corridors**

	<b>Municipal Rate per Acre</b>	<b>Education Rate per Acre</b>	<b>Total Rate per Acre</b>	<b>Acreage</b>	<b>Municipal Levy</b>	<b>Education Levy</b>	<b>Total Levy</b>
<b>2017 Levy</b>							
Canadian National Railway	\$617.33	\$822.69	\$1,440.02	137.93	\$85,148	\$113,474	\$198,622
Canadian Pacific Railway	\$617.33	\$822.69	\$1,440.02	493.99	\$304,955	\$406,401	\$711,356
Power Utility – Hydro One	\$834.02	\$1,208.66	\$2,042.68	2720.99	\$2,269,360	\$3,288,752	\$5,558,112
Metrolinx <sup>1</sup>	\$617.33	\$0.00	\$617.33	974.59	\$601,644	\$0	\$601,644
<b>Total</b>				<b>4327.50</b>	<b>\$3,261,107</b>	<b>\$3,808,627</b>	<b>\$7,069,734</b>
<b>Adjusted Total (City retaining Education share of Hydro One levy)<sup>2</sup></b>					<b>\$6,549,859</b>	<b>\$519,875</b>	<b>\$7,069,734</b>
<b>2016 Levy</b>							
Canadian National Railway	\$611.33	\$822.69	\$1,434.02	137.63	\$84,137	\$113,227	\$197,364
Canadian Pacific Railway	\$611.33	\$822.69	\$1,434.02	528.54	\$323,112	\$434,825	\$757,937
Power Utility – Hydro One	\$834.02	\$1,208.66	\$2,042.68	2712.77	\$2,262,504	\$3,278,817	\$5,541,321
Metrolinx <sup>1</sup>	\$611.33	\$0.00	\$611.33	942.55	\$576,209	\$0	\$576,209
<b>Total</b>				<b>4321.49</b>	<b>\$3,245,962</b>	<b>\$3,826,869</b>	<b>\$7,072,831</b>
<b>Adjusted Total (City retaining Education share of Hydro One levy)<sup>2</sup></b>					<b>\$6,524,779</b>	<b>\$548,052</b>	<b>\$7,072,831</b>

Notes:

1. Metrolinx was known as Greater Toronto Transit Authority (GO Transit). The Greater Toronto Services Board Act, 1998, exempted the real property owned by Greater Toronto Transit authority from education taxes. Pursuant to the GO Transit Act, 2001, as of January 1, 2002, GO Transit became a Crown Agency of the Province. It is exempt from property taxes but subject to payment-in-lieu of taxes for the municipal portion of taxes only.

2. For Hydro One properties, the City retains the education portion of taxes. In the rows labelled "Adjusted Total", the education portion for Hydro One properties has been included in the Municipal Portion of taxes. Prior to April 1, 1999, under a revenue sharing arrangement for Ontario Hydro properties, the City retained both the education and municipal portions of taxes. Section 361.1 of the Municipal Act was amended effective April 1, 1999 to establish that the taxes payable were included in the definition of payment-in-lieu (PIL) properties. This allowed the City to continue to retain both the municipal and education portion of taxes, and this has been continued under the City of Toronto Act, 2006.

Table 2 provides a comparison of the change in acreage and levy from 2017 to 2016. The per-acre rate for railway roadways and railway rights of way has changed from \$611.33 in 2016 to \$617.33 in 2017.

**Table 2: Change in Levy from 2016 to 2017**

<b>Company Name</b>	<b>Acreage</b>	<b>Municipal Levy</b>	<b>Education Levy</b>	<b>Total Levy</b>
Canadian National Railway	0.30	\$1,011	\$247	\$1,258
Canadian Pacific Railway	-34.55	-\$18,157	-\$28,424	-\$46,581
Power Utility – Hydro One	8.22	\$6,856	\$9,935	\$16,791
Metrolinx	32.04	\$25,435	\$0	\$25,435
<b>Total</b>	<b>6.01</b>	<b>\$15,145</b>	<b>-\$18,242</b>	<b>-\$3,097</b>
<b>Adjusted Total (City retaining Education share of Hydro One levy)</b>		<b>\$25,080</b>	<b>-\$28,177</b>	<b>-\$3,097</b>

Overall, the net revenue retained by the City for 2017 has increased by \$25,080 from 2016. A portion (\$9,640) of the total net revenue is the result of an increase in the acreage rate for railway rights of way from \$611.33 in 2016 to \$617.33 in 2017. The remaining portion (\$15,440) is the result of an increase in the total acreage of railway roadways and hydro corridor rights of way from 4,321.49 acres in 2016 to 4,327.5 acres in 2017 (representing an increase of 6.01 acres):

- Canadian National Railway's total acreage has increased by 0.30 acres (137.63 acres to 137.93 acres) as a result of a site change.
- Canadian Pacific Railway's total acreage has decreased by 34.55 acres (528.54 acres to 493.99 acres) due to sales of CP's parcels, some of which were acquired by Metrolinx. The remaining portions of land were purchased by private companies. These parcels have been assigned separate assessment roll numbers and are now taxable.
- Hydro One's total acreage increased by 8.22 acres (2,712.77 acres to 2,720.99 acres). This includes a reduction of 1.62 acres due to land severance. This also includes an increase of 8.52 acres from lands that had been incorrectly removed due to a previous severance, and an increase of 1.32 acres due to land acquisition.
- Metrolinx's total assessable acreage has increased by 32.04 acres (942.55 acres to 974.59 acres) due to acquisition of land, a portion of which was acquired from Canadian Pacific Railway.

This increase in the acreage resulted in a corresponding increase of \$25,080 in the municipal portion of the levy (includes the City retaining both the municipal and education levy for Hydro One properties), and a reduction of \$28,177 in the provincial education portion of the levy.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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At its meeting held on July 6, 7 and 8, 2010 City Council, in adopting Executive Committee report EX45.10: "2010 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors," also approved the following:

2. City Council reaffirm its position adopted in 2009 with respect to Executive Committee Item EX33.14 and EX33.14a, as follows:

"4. City Council approve seeking an amendment to:

a. Regulation 387/98 and 392/98 to require an annual inflationary adjustment in the "mature rate".

b. the "mature rate" prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time be reviewed.

5. City Council request the City Manager to actively pursue this matter in concert with other municipalities in Ontario.

6. City Council authorize the Deputy City Manager & Chief Financial Officer and the Treasurer, in consultation with Intergovernmental Relations, to work in conjunction with the Regional Treasurers of Ontario group, the Municipal Finance Officers' Association, the Association of Municipal Clerks and Treasurers and the Association of Municipal Tax Collectors, to advance the position to the Province of Ontario that railway and hydro rights of way should be assessed and taxed on a Current Value Assessment basis.

7. Deputy City Manager & Chief Financial Officer and the Treasurer report on their progress annually."

The report and decision document of Council can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.EX45.10>

At its meeting held on July 16, 17, 18 and 19, 2013 City Council, in adopting Executive Committee Report EX33.25: "2013 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors," authorized the levy and collection of taxes for the 2013 taxation year. At this meeting, City Council also amended the recommendations of the report by adding the following recommendations:

2. City Council request the Province of Ontario enact regulations to prescribe a levy on Railway Roadway and Rights of Way and on Power Utility Transmission and Distribution Corridors for the 2013 taxation year, reflecting inflationary increases since 2005 when the current mature rates were reached;

3. City Council request the Province of Ontario to adjust the rate annually in each future year to reflect an average annual inflationary increase; and
4. City Council, should the Province enact a new rate applicable for 2013, authorize staff to bring an amending bylaw to Council to enact the new rates.

The report and decision document of Council can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX33.25>

City Council also adopted the annual levy on railway rights of way and hydro corridors in each of 2014-2016, through the reports below:

2014: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX43.23>

2015: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX7.23>

2016: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX16.23>

The 2016 Ontario Economic Outlook and Fiscal Review announced that the Province had initiated a review of the property taxation of railway rights-of-way in response to municipal requests. As part of the review, the Province held consultations with municipalities and representatives of the railway industry. Based on these consultations, in the 2017 Ontario Budget, the Province announced that it is taking action to address three key issues related to indexation of rates, variation in rates and implications for shortline railways.

[Building Ontario Up for Everyone: 2016 Ontario Economic Outlook and Fiscal Review](#)

## **ISSUE BACKGROUND**

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Ontario Regulations 387/98 under the *Municipal Act, 2001* (continued by O.Reg. 121/07 under the *City of Toronto Act, 2006*) and O.Reg. 392/98 under the *Education Act*, as amended, have prescribed the applicable rates for railway and power utility rights of way acreage levies since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed "transition rates" each year, to phase-in changes to the taxation level of these right of way properties. In 2005, a uniform rate of taxation was reached within each of eight geographic regions across the Province. The acreage tax rates established in 2005 are called 'mature rates' and apply to all years beyond 2005. Through the release of the 2017 Provincial Budget, the railway rights-of-way tax rates were updated and increased by approximately \$6 per acre for 2017, however, the tax rates for Hydro corridors remain unchanged.

## COMMENTS

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Subsection 280(1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways, and rights of way and on land used as transmission or distribution corridors owned by power utilities.

Subsection 257.7(1) of the *Education Act* requires the City to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280(1) of the *City of Toronto Act, 2006*.

Ontario Regulation 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2016 for the municipal portion and education portion of taxes respectively, for railway and power utility rights of way acreage levies. The Province is currently in the process of updating the above noted regulation and will notify all municipalities once complete.

To calculate the taxes payable on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2017.

As provided in Table 1 above, the estimated revenue for 2017 from all the railway and power utility rights of way is approximately \$7.1 million, of which the municipal share is \$6.5 million and the education share is \$0.6 million. Of the \$6.5 million municipal share, \$601,644 will be received in the form of payment-in-lieu of taxes from Metrolinx.

### **Legislative Amendments**

At various times since 2006, City Council has made recommendations to the Minister of Finance to amend regulations to require an annual inflationary adjustment in the "mature rate" and the "mature rate" prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time. Council's position and requested changes on the assessment and taxation of railway rights of way and hydro corridors has been identified to the Province on several different occasions by staff.

By way of letter dated May 17, 2017 to the Municipal Treasurer, the Ministry of Finance has advised of measures the Province is undertaking to modernize the property taxation of railway rights of way for the 2017 taxation year. The Province announced in the 2017 Ontario Budget that it is taking action to address the indexation of rates for railway rights of way. Beginning in 2017, property tax rates on railway rights of way will be updated to reflect the average annual percentage change in taxes on commercial properties - in Toronto for 2017, this represents an increase of approximately \$6 per acre. The

acreage rates for railway roadways and railway rights of way have changed from \$611.33 in 2016 to \$617.33 in 2017. The Ministry of Finance is working with legislative council to introduce a new regulation within the coming weeks to reflect the new railway acreage rate as contained in the attached letter. No announcements have been made regarding the indexation of tax rates for Hydro corridors.

## **CONTACT**

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## **SIGNATURE**

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Mike St Amant  
Treasurer

## **ATTACHMENTS**

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Attachment 1 - Letter from the Ministry of Finance dated May 17, 2017 regarding the measures that the Province is undertaking to modernize the property taxation of railway rights-of-way for the 2017 taxation year.

# ATTACHMENT 1: Letter from the Ministry of Finance dated May 17, 2017

**Ministry of Finance**  
 Provincial-Local  
 Finance Division  
 10<sup>th</sup> Floor  
 777 Bay Street  
 Toronto ON M5G 2C8  
 Tel (416) 327-0264  
 Fax (416) 325-7644

**Ministère des Finances**  
 Division des relations provinciales-  
 municipales en matière de finances  
 10<sup>e</sup> étage  
 777, rue Bay  
 Toronto (Ontario) M5G 2C8  
 Tél. : 416 327-0264  
 Téléc. : 416 325-7644



May 17, 2017

Dear Municipal Treasurer/Clerk-Treasurer:

I am writing to advise you of measures the Province is undertaking to modernize the property taxation of railway rights-of-way for the 2017 taxation year.

The *2016 Ontario Economic Outlook and Fiscal Review* announced that the Province had initiated a review of the property taxation of railway rights-of-way in response to municipal requests.

As part of the review, the Province has held consultations with municipalities and representatives of the railway industry. Based on these consultations, in the *2017 Ontario Budget*, the Province announced that it is taking action to address three key issues related to indexation of rates, variation in rates, and implications for shortline railways.

Details of these measures are summarized in the following table.

Key Issues	Proposed Measures for 2017
<b>1. Indexation of Rates:</b> Municipalities have expressed concerns that property tax rates on railway rights-of-way have not been updated since the late 1990s.	Beginning in 2017, property tax rates on railway rights-of-way will be updated to reflect the average annual percentage change in taxes on commercial properties. This means that municipal property tax rates will increase by approximately \$6 per acre for 2017.
<b>2. Variation in Rates:</b> Municipalities have also expressed concerns about the significant variation in railway rights-of-way property tax rates across the Province, with the lowest rates being approximately one-twentieth of the highest rate.	The Province will begin to address rate inequities by adjusting the lowest property tax rates on railway rights-of-way to a minimum of \$80 per acre in 2017. Currently, the lowest rate is approximately \$35 per acre.

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Key Issues	Proposed Measures for 2017
<b>3. Shortline Railways:</b> The railway industry expressed concerns about the impacts of potential property tax increases on shortline railways.	The Province recognizes the challenges faced by shortline railways and will take this concern into account when setting rates.

The education property tax rate on railway rights-of-way properties will be maintained at the 2016 levels for the 2017 taxation year.

The Province will implement the changes to municipal property tax rates by setting separate rates for mainline and shortline railway rights-of-way properties. The 2017 property tax rates for your municipality are provided in the attached table. The attachment also provides a list of railway rights-of-way properties in your municipality, for your reference. Preliminary analysis conducted by the Ministry of Finance suggests that all of the railway rights-of-way in your municipality may be mainline.

The Province will update municipalities when regulations implementing these property tax policy decisions are in place. These rates are currently available in the Online Property Tax Analysis System to support municipal property tax analysis and policy implementation.

For 2018 and future years, the government will continue to adjust rates to address these key issues. The Province is committed to modernizing the property taxation of railway rights-of-way and remains open to further stakeholder input.

If you have any questions or concerns, please contact Priyanka Debnath, Manager (A), Strategic Policy Liaison Unit, at [priyanka.debnath@ontario.ca](mailto:priyanka.debnath@ontario.ca).

Sincerely,

*Original signed by*

Allan Doheny  
Assistant Deputy Minister  
Provincial-Local Finance Division

Enclosure