

Amendments to The Victoria University Act - By-law for Phasing-in Municipal Taxes

Date: June 15, 2018
To: Government Management Committee
From: Treasurer and City Solicitor
Wards: 27

SUMMARY

This Report recommends that Council enact a by-law to phase-in the new taxes for municipal purposes that will be levied on Victoria University's ownership interest in properties that it leases starting in 2019 in accordance with amendments to *The Victoria University Act* that came into force on May 8, 2018.

RECOMMENDATIONS

The Treasurer and City Solicitor recommend that:

1. Council adopt a by-law to phase-in the additional municipal taxes payable by tenants of Victoria University as required by the recent amendments to *The Victoria University Act*, substantially in the form of the draft by-law attached to this report.
2. City Council authorize the appropriate officials to take the necessary actions to implement and give effect to the amendments to *The Victoria University Act* and the proposed By-law.

FINANCIAL IMPACT

Amendments to *The Victoria University Act* will result in Victoria University's ("Vic U") underlying ownership interests in properties it leases being subject to property tax for municipal purposes starting in 2019.

There is no impact to the City's 2018 Operating Budget.

A preliminary estimate of the 2019 tax impact using 2018 tax rates is that the City will collect an additional \$786,050. Once the phase-in periods have ended, we estimate an

annual amount in excess of \$3 million. Variables such as annual tax rates, the outcomes of assessment appeals, future CVA cycles, and capping and clawback impacts will affect future year taxes. The value of Vic U's underlying ownership interest that will become subject to municipal taxes will be reflected as assessment growth in the City's future operating budgets.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information above.

DECISION HISTORY

At its meeting held June 7, 8 and 9, 2016, City Council, in its consideration of item GM12.9: "Victoria University Act - Assessment Appeal of 131 Bloor Street West," adopted recommendations 1 and 2 of the staff report and referred recommendation 3 to the Treasurer with a request that the Treasurer meet with representatives of Victoria University regarding the implications of a request to amend the *Victoria University Act* and report back to the Government Management Committee on the results of the consultation. Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM12.9>

Subsequently, in March 2017, through its adoption of Item GM18.5: *Implications of a request to amend The Victoria University Act*, City Council authorized the Treasurer, in consultation with the City Solicitor, to enter into negotiations with representatives of Victoria University to develop and execute an agreement that addresses the loss in property tax revenue arising from the broad tax exemption in *The Victoria University Act* that applies to property Victoria University owns but does not use or occupy.

In adopting this report, Council also approved that, should the Treasurer and City Solicitor fail to reach an agreement with Victoria University by September 30, 2017, the Provincial Government be requested to amend the *Victoria University Act* to make the tax exemption sections in that Act consistent with the tax exemption sections in the *Assessment Act* and the enabling legislation for other public universities in Toronto and Ontario. Council's decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.GM18.5>

COMMENTS

BACKGROUND

The *Assessment Act* provides that all real property is subject to assessment and taxation with certain real property exempt from tax. Generally, real property is assessed against its owner including when the real property is subject to a lease. An exception to this existed in *The Victoria University Act*, prior to its recent amendment, which required the Municipal Property Assessment Corporation (MPAC) to assess the leasehold interest of Vic U's tenants separately from Vic U's underlying ownership interest in those leased properties. The separately assessed interests were necessary because *The Vic*

U Act made the leasehold interest taxable whereas Vic U's underlying ownership was exempt from tax.

When other universities in Toronto lease their properties their underlying ownership interest in those properties are subject to tax¹. Therefore, an inequity in taxation between Vic U and other universities was created by the tax exemption applicable to Vic U's underlying ownership interest in properties that it leases.

Vic U owns properties subject to long term leases on Bloor Street West between Queens Park and St Thomas Street.

- 131 Bloor Street West known as the Colonnade building
- 151 Bloor Street West formerly known as the Britannica building
- 153 Bloor Street West known as the Lillian Massey Building
- 110 Charles Street West which is occupied by McKinsey & Company; and,
- 6, 6A& 8 St. Thomas Street which are luxury rental apartment buildings

Originally enacted over 60 years ago to apparently encourage development in Yorkville, today Vic U's broad property tax exemption results in significant tax unfairness. Private commercial and multi-residential entities can build, own and operate high end commercial and residential buildings on a long-term lease and pay less in property taxes than similar neighbouring properties that are not owned by the university.

Despite significant efforts, the City and Vic U were unable to reach a concluded agreement for a voluntary payment in lieu of the municipal taxes that would have been levied if Vic U's ownership interests in its leased properties were taxable.

As a result, in December 2017 the Treasurer and City Solicitor submitted an application to the Provincial Legislature for a private bill that would amend *The Vic U Act* to narrow Vic U's tax exemption so that properties it leases were fully taxable. Subsequent consultations with Ministry of Finance officials led to amendments to *The Vic U Act* that were included in the 2018 provincial budget.

The Plan for Care and Opportunity Act (Budget Measures), 2018

The Plan for Care and Opportunity Act (Budget Measures), 2018, which came into force on May 8, 2018, narrows the tax exemption of Vic U's underlying ownership interest to taxes for school purposes only starting in 2019. This means that Vic U's underlying ownership interest will be subject to taxes for municipal purposes.

As the levying of municipal and school taxes is the responsibility of the City, we expect MPAC will return Vic U's leased properties (the building portion) as fully taxable. For Vic U's underlying ownership interest (the land portion), property taxes in 2019 and beyond will be levied for the municipal portion of taxes payable - the provincial education portion of the taxes will remain exempt from taxation.

¹ Aside from the University of Toronto, which has the same broad property tax exemption. *The University of Toronto Act* was not amended by *The Plan for Care and Opportunity Act (Budget Measures), 2018*.

The amendments to *The Vic U Act* provide that the additional municipal taxes are deemed to be taxes collectible under Vic U's existing leases. The amendments also require the City to pass a by-law that phases-in the additional municipal taxes that Vic U's tenants will be required to pay.

- For residential and multi-residential taxes, the phase-in period is six years

Year	Tax year	Amount of property taxes for municipal purposes owing for the tax year
1	2019	One-sixth (1/6)
2	2020	One-third (1/3)
3	2021	One-half (1/2)
4	2022	Two-thirds (2/3)
5	2023	Five-sixths (5/6)
6	2024	Full portion (1/1)

- For commercial and all other taxes, the phase-in is four years.

Year	Tax year	Amount of property taxes for municipal purposes owing for the tax year
1	2019	One-quarter (1/4)
2	2020	One-half (1/2)
3	2021	Three quarters (3/4)
4	2022	Full portion (4/4)

Conclusion

There are five outcomes for 2019 and subsequent years arising from the amendments to *The Vic U Act* and the City's proposed By-law:

- Vic U's underlying ownership interest in real property it has leased to tenants will be liable for property taxes for municipal purposes and remain exempt from property taxes for school purposes;
- In assessing Vic U's leased properties, MPAC will be required to partition Vic U's underlying ownership interest value separately from the leasehold interest value;
- For Vic U properties that were leased when the *Budget Measures Act* was introduced, the City will be required to phase-in the municipal taxes on Vic U's underlying ownership interest;
- Future new Vic U tenants are not entitled to the phase-in of the municipal taxes arising from the amendments; and,
- MPAC will continue to assess the leasehold interest in Vic U's properties as fully taxable and the City will continue to bill the leasehold interest for municipal and school taxes.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

Mike St. Amant
Treasurer

ATTACHMENTS

City of Toronto By-law *Phase in of taxes for municipal purposes The Victoria University Act, 1951, as amended*