TAX Report

TABIA AGM 2017 – Lionel Miskin, TABIA Vice President

What I consider a dangerous attitude and dangerous language have crept into tax policy. They are expressed by both governmental revenue agencies and a frightening number of pundits. It's tax loss. If government doesn't tax something, that's considered a tax loss. If government could tax more, but doesn't, as for example capital gains tax which is now taxed at half the rate that income is taxed at, that's considered a tax loss. The dividend tax credit which was introduced to encourage Canadians to invest more in Canadian companies is under fire because the government could tax dividends at the usual income tax rate, and so is suffering a tax loss. It's as though government is entitled to 100% of all revenue, and incurs losses when it leaves something in the hands of the taxpayers.

I never thought that I would be quoting a member of the Freedom Caucus, but these tax loss people should heed something said by Jim Jordan, a co-founder of the Caucus, which is, "I don't view cutting taxes as the government losing money. I view it as allowing families to keep more of their money."

By the way, I was complimented on my parking today... someone left a note on my car saying 'Parking Fine'.

That is really a segue into parking tax. They want to tax you when you're driving with road tolls, and they want to tax you when you're not driving, a parking tax, on top of any parking fees that you pay. The proposal which the city was considering was to impose an annual tax on every parking space on commercial property within the City. The forecast revenue from such a tax was estimated to run into many tens of millions annually. This estimate, done without even knowing what rate the tax would bear or even any idea of how many such parking spaces the City has. The burden on businesses would have been onerous in any event. Remember that what was being proposed was a tax on top of tax. Such parking spaces are already caught by property taxes as they are assessed as part of the property on which they are situate. It would have had a major impact on the small property owner with one or two spaces off a laneway at the back of his store, and on small businesses in strip plazas. Imagine the hit to a funeral home or to any other business that needs a lot of customer parking, or parking for many employees.

And by the way, CRA has been treating employee parking as a taxable benefit. So if your employer allows you to park free at work, CRA wants to tax you on the imputed value of that "free" parking. It is often said that there is only one taxpayer, but every level of government believes that it owns that taxpayer. But, I digress. TABIA and others vigorously opposed the parking tax. We made a major submission to the City's Executive Committee in June 2016. Basically what we told them was:

1) A parking levy would be counter-productive and inconsistent with existent policy, which is to reduce the tax burden on business
2) A parking levy makes Toronto business even less competitive in relation to surrounding municipalities
3) A parking levy makes Toronto business even less competitive in relation to online retailing, with consequent reductions in main street retailers and corresponding reduction in property tax revenue
4) Administrative costs are very high
5) More intensive study required to determine actual gross revenue and administrative costs.

Full submission is on the website.

While that particular tax seems to be a dead issue for now, there is another parking tax which is not and which will raise its head again. That is a tax on paid parking spaces. If implemented, the parking fee you pay on a commercial lot and presumably on a street meter, would include an additional tax; not on the drawing board yet, but I guarantee that it will come up in the near future. So, it is as bad as you think, and they ARE out to get you.

For those of you who didn't think that my report on the parking levy wasn't funny enough, here's another one-liner:

Definition of a Taxpayer: <u>One who doesn't have to pass a civil service exam to work for the government.</u>

Then there is our submission to Mr. Sousa, the provincial Finance Minister, who called for consultations, by invitation only I should say, regarding the proposed 2017 provincial budget. This would be funny too if it weren't so serious. Gerald Lieberman, whoever he is, said "Elections are held to delude the populace into believing that they are participating in government." I suggest that consultations are held for the same reason: when government has decided what it intends to do and then invites interest groups to make submissions without telling them that the plans are already decided.

Jan 2017, I attended with a presentation on behalf of TABIA, along with about 70 other persons. Mr. Sousa sent his legislative assistant who was saddled with the burden of sitting for over 2 hours listening to the presentations of these 70 organizations almost all of whom were asking for subsidies. It really was an eye-opener to the enormous demands that are made on the public purse. Presentation time for everyone, 3 minutes strictly enforced. Hardly enough time to make a meaningful presentation and certainly not enough time to absorb one. We subsequently sent our presentation in by email as well, but it's hard to believe that the Ministry pays much attention to them. When you're making a submission like this you really get the feeling that you're talking to yourself. But one advantage of that is at least you know somebody is listening. That presentation is on the TABIA website and so I won't go into it here.

While it may not seem like it, I am trying to keep my remarks brief. After all, it's said that most speakers need no introduction. What they need is a conclusion. But please bear with me.

I want to talk about long term construction on city streets, as for example on St. Clair or Eglinton. Why you might ask, does this have anything to do with taxation. Well the answer is that TABIA has been advocating for compensation for the many businesses which are affected by such construction, and one of the methods of compensation could be a tax holiday. This in turn is a segue into the Vacant Tax Rebate (VTR) program. So let me start there.

Before Current Value Assessment (CVA) which was enacted in 1996, effective in 1998, property owners paid property tax and business owners paid what was called a Business Occupancy Tax (BOT). So if you owned a commercial property your tenants paid the BOT, and you paid the property tax, although obviously the rent in any property has to reflect the tax burden on that property. But when CVA came in the BOT was rolled into the property tax. So now the owner had to pay both taxes even if the property was vacant. A partial relief was provided by the Vacancy Tax Rebate (VTR) program which would rebate to the owner a portion of the property tax attributable to the vacant space, the amount being about 30% of the tax attributable to the vacant space; not great, but better than nothing except that you had to navigate a lot of red tape and form-filling to qualify; so much so that many people just didn't or couldn't do it. But now there is a move afoot at the City, newly empowered by the province, to terminate the VTR. In March we met with Mike Williams who is GM of the Economic Development Division, who invited us to discuss the proposal. We, in effect, hijacked the meeting to discuss the effect of long term construction on businesses, and began by presenting photographs of various locations on Eglinton where fencing, barriers and other obstructions were in place. We learned that the greatest beneficiaries of the program were the major property owners, e.g. companies like Oxford, Riocan etc. We suggested that while they might be the biggest beneficiaries, the small property investor would be the most hurt by revocation of the program. Mr. Williams, seeking TABIA's support for the proposal, then dangled a carrot; the carrot being the possibility that the expected additional revenue to the City of $23 million could be used, in whole or in part, to compensate those businesses negatively affected by long-term construction. At the same time he acknowledged that there were already demands for that money even though it was still at the proposal stage. I suggested that even if only a portion of the money were to be used to create a continuing fund which would always be available for this purpose, that would be a help, but in honesty I know that reserve funds are, sooner or later, and usually sooner, raided by municipal councils to finance one vote-buying program or other. So I view it all as pie in the sky. Besides our BIA's are split on the issue with some feeling that the program should be cancelled because it encourages owners to keep stores vacant to the detriment of the BIA. I frankly do not buy that argument because a small investor can in no way afford vacant space, and probably most long-term vacant property is owned by developers, who might hold the property in a different entity to disguise the true ownership; and the developer might well want to keep it vacant so as to be able to start development as soon as all approvals are in, or even preliminary work before that. And I doubt that the cancellation of the VTR will deter that kind of conduct.

I have to back up now. In Nov. 2015, we made a deputation to the City's Economic Development Committee. This is a committee of municipal councillors. The submission is available on TABIA's website. Our effort produced two motions passed by the committee: one directing staff to inquire as to what other municipalities were doing in relation to businesses affected by long term construction, and also to inquire as to the workings of the BET (Business Education Tax) and its effect on Toronto business; and of course to report back to the committee on its work.

John Kenneth Galbraith once said: Nothing is so admirable in politics as a short memory. One and one-half years later, no report has been forthcoming and the committee has not followed up on its motions to even see if they were being implemented. I asked Mr. Williams why the reports had not been done, and his response was: "other demands". I asked when the reports would be available, and his response was: "in the fall". Frankly, in any private organization, those reports would have been done in a matter of days, not years. Everything that the committee needs to know about the BET, we have already told them and all of the info is available on TABIA's website. As for the construction info, I am recommending to our Board of Management that we attend to this ourselves and present our findings to the committee.

Mr. Williams asked what we would propose to improve the situation. We made the following suggestions:

Contractors should use fencing and barriers which are easily erected and removed so that they can be taken down when there is no work ongoing, as for example, on weekends (prime time for retailing) or evenings. Vacant lots and side streets should be used to park construction vehicles which would otherwise be parked on the main street. Any additional space should be made available to prospective customers to park free. Short term parking should be made available for customers. The contractors should use vacant buildings for their site offices rather than trailers parked on the street blocking access and visibility. Businesses which are negatively affected should receive a "tax holiday" with provision that the benefit be passed directly to the business owner rather than the property owner.

For future projects, the logistics should be developed with a view to minimizing the impact on businesses, and compensation for business losses should be built into the project costs.

Mr. Williams made notes of all of these recommendations. No commitments were made by anyone, and the meeting ended. We are now engaged in planning how to proceed from here.

Now let's talk about Toronto. What's a good building? In a good building, you got a door man; a bad building, you just got a man in a door. I think that's more of a sad comment than a joke. It's also not much of a segue into the Tax Rate ratio, but here we are. That's the ratio between the commercial rate and the residential rate. Remember when TABIA started its advocacy on this issue; the ratio was 5:1. I'm not going into this in detail inasmuch as I have covered it in previous reports. But I need to inform you that for small business, the target ratio of 2.5:1 has been reached, another plus for TABIA; and while I do not like to toot my own horn, I do want you to know that TABIA does produce for your BIA's. In this year's budget the City has altered the formula for reaching the target by deciding to increase the tax rate on commercial property by 50% of the increase on residential property rather than the previous figure of 33%. This will delay other commercial property from reaching the target by several years. TABIA did not oppose this change because it was felt that the change would be approved in any event, the actual dollar figures were not that large, and we didn't want to expend our political capital on it. We are however pressing the powers that be to fix a date for return of the 33% number. We are also suggesting, given the success of the program, that the program continue until the ratio reaches 2:1.

And now more bad news. If you're starting to feel paranoid, that's OK. Just because you're paranoid doesn't mean that someone's not out to get you, or your money. A quick word about the 2017 Toronto budget.

All the Toronto media that I saw trumpeted that the residential taxes would increase by 2%, within the rate of inflation as promised by Mayor Tory. Well that information is correct if you accept the spin. If you look behind the spin you'll find that the actual increase is 2% + ½% for a so-called City Building Fund + another 0.9% for a "Budgetary Levy Increase" for a total rate increase of 3.29%. Enough said.

And now even more bad news. Please don't shoot the messenger.

The 2017 Provincial budget. I earlier mentioned the BET. For those who have forgotten the BET is the so-called business education tax which comprises a very large portion of your commercial tax bill. You will remember that the Province sets the rate every year and the rate, strangely enough, is not uniform, but varies from municipality to municipality. In this patchwork of a tax, the rates are skewed against Toronto whose businesses pay a much higher rate than businesses in adjoining municipalities, thereby making it more difficult for Toronto business to compete. Remember that this government inherited a program initiated by a previous Conservative government to gradually adjust the rates to make them uniform across the Province. This Liberal government suspended the program, but promised repeatedly to resume it once the deficit was eliminated. Well in the 2017 Budget, the government claims, with much fanfare, it has eliminated the deficit. And what about the BET? Not a word. It's still penalizing Toronto business. I have emailed the Mayor, suggesting again that Toronto Council should make a ruckus about that, but we shall see. Neither Council nor individual councillors have ever done so before.

They say its best to leave your audience before your audience leaves you. So this is my last item, The fate of caps and clawbacks. (Pease see report dated April 6, 2017, from the Deputy City Manager and the Chief Financial Officer to the City's Executive Committee, attached as an appendix.)

I think I have outstayed my welcome here. Thank you for being so patient. John would you kindly wake everybody up?

Background Information:

(April 6, 2017) Report from the Deputy City Manager and Chief Financial Officer on 2017 Education Property Tax Levy and Clawback Rate By-law
(http://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-102553.pdf)