PROPERTY TAX REVISITED, WITH AN OPTION

Council had directed the Interim Chief Financial Officer to explore and report on options for property taxation in 2019 and years following. Obviously Council perceived, quite properly, that the current system was not working well. The problems are well documented. Property owners can find their property tax assessments (and hence their taxes) skyrocketing, notwithstanding that they have done nothing to increase the intrinsic value of their property. Perhaps a neighbourhood has become high demand where purchasers are prepared to pay much larger sums for property. Perhaps developers are paying outsized sums for property in the area. Perhaps an area is becoming gentrified. These developments drive up market value, and if you own property in that area, your assessment will rise with it. From the owners' perspective, the effect is entirely random. Once the taxation level has been tied to a market, you are subject to the vagaries of that market.

HOW ARE OWNERS AFFECTED?

Homeowners struggling to meet their mortgage payments may suddenly find that their tax instalments have far exceeded their budget capability. Businesses, especially small and medium-sized businesses, may find their overheads ballooning. One of the worst effects of CVA is its unpredictability. How does a prospective purchaser decide what property is affordable? How can a business owner decide on an appropriate lease term or whether to renew a lease? Owners have difficulty planning budgets when one of their major expenses is unpredictable from one assessment cycle to the next. Since the inception of CVA 20 years ago, it has been amended, twisted and tweaked over and over again with only limited benefit and no end in sight. The system is so complex now that very few people actually have a grasp on it, and certainly not the average taxpayer. No doubt Council had these issues in mind when it issued its direction.

That direction has resulted in a number of meetings in which TABIA has participated. Those meetings revealed a general consensus on some points.

1. That the root of the problem lies in the Assessment Act, a provincial statute. But the Province has dumped the burden of solving the problem on the municipalities through what it calls "tools". The tools have so far proved to be totally inadequate.
2. That Current Value Assessment is, in one form or other, here to stay.
3. That taxpayers should be protected from sudden spikes in tax.
4. That there can be no perfect tax system, and the object is to attain the greatest fairness for the largest number of taxpayers.

The *Report for Action* (RFA) (p. 12 bot.) states that "CVA . . . is an internationally accepted best practice in property taxation **theory** (emphasis is the writer's), and when applied consistently, provides for a fair, transparent and easily understood taxation system." Well if CVA were "fair" we wouldn't be discussing it now, and it certainly is not transparent nor easily understood. Try reading the Assessment Act, or, for that matter, even your tax bill. The report goes on to say (top p. 7) "Toronto should continue to adopt policies designed to move properties to full CVA taxation levels, as a means of establishing equity in the distribution of property classes. But we have been trying to do that for 20 years and still no end in sight. "When asked: is fairness achieved when all properties are taxed at full CVA taxation levels? 73% of all respondents indicated no or uncertain – only one quarter of respondents answered yes to this statement." (p. 6, 2nd para) TABIA says it is time to think little bit outside the box.

Accordingly, TABIA has concluded that the only way this problem can be solved is by attacking the problem at its root. We do not propose dumping CVA, but we do propose to vary it. After a great deal of thought, TABIA has arrived at what we think could be an effective permanent solution. TABIA proposes limiting assessments, or, if you will, capping them, as opposed to capping taxes.

What would this achieve?

1. It would protect taxpayers against huge jumps in assessment on any given property.
2. It would restore an element of certainty and predictability for owners.
3. It would be administratively much simpler than capping tax increases, and much more transparent.
4. Applied to all property, it would avoid the necessity of creating special classes of property.
5. It would not impair a municipality's tax revenues which would be determined in the usual way through its ability to set tax rates.
6. It would partially protect Toronto business from the punitive, discriminatory rates which the Province imposes through its property tax (mis-named the Business Education Tax).
7. It would avoid the shifting of any tax burden between different kinds of property.
8. Owners whose assessments were reduced would get the full benefit on a reduced tax bill (i.e. no claw-backs required)
9. MPAC would continue to assess on the basis of current value without alteration to its methodology or procedures, and the tax bills would simply show the full CVA together with that portion of it which would be subject to taxation.
10. Revenue loss from capped properties would be made up from all members of the class in the form of a higher tax rate, or, across all classes, as opposed to the present system where only some property owners finance the revenue loss. It is to be noted in the RFA that 78% of participants in the public consultation sessions "indicated a marked preference that capping protection should be funded by increasing tax rates across all tax classes, including residential" while 39% of online survey respondents suggested the same. (*see *Limiting tax increases* – bot. p. 6.)
11. Applied to all property, including industrial, residential and rural, assessment capping could bring many of these benefits to all property owners across the Province.

Depending on policy decisions, a property could revert to full CVA if it were to be sold at arm's length, or if the use of the property were to change; and that value would constitute the base for future capping. A further policy decision would have to be made as to how to protect existing tenants on such a reversion. (This is already done for residential tenants.) And a pragmatic decision would have to be made to select a base year. Some thirteen American states currently use this or a similar system. It is to be noted that the deviation between the full CVA and the taxable portion of the assessment would in itself affect the market value of a property.

We stress that this proposal is not the "California system". California adopted assessment capping by reason of a binding referendum, but went much further than merely capping assessments. In California the state collects the property tax and distributes it among the various regions. The issue in California is that the law tied the hands of the legislature from increasing tax rates. An increase requires a two-thirds majority vote in both houses of the state legislature. Even to levy a special purpose tax, such as for education, requires a two-thirds approval of the electorate. TABIA does **not** recommend such restrictions for Ontario.

The major objection to TABIA's proposal is that after time you could get a growing gap between full CVA and taxable assessment on any property. The RFA refers to this in the second to last para on page 11 where it states that "the greatest benefit would accrue to those whose property values, therefore wealth, have increased the most." The difficulty with that objection is that you are taxing wealth which has not been realized. Imagine that the government imposed capital gains tax on the increased value of your assets even though you have never disposed of them. You bought a stock and it increased in value. Should you be taxed on the increase even though you are still holding the stock? That's what undiluted CVA does to above average increases in assessed value.

When TABIA discussed this proposal internally, the question arose as to what would trigger the assessment cap. We had initially thought that Council would make a policy decision on this issue and concluded that a fixed percentage increase would trigger the assessment limit, say 2% or 5% or 10%. That would be up to Council to set. But the report has approached it in a somewhat different manner. They ran computer models on the basis of a cap trigger when a property increased by more than double the average increase and by more than triple the average increase. That method would minimize the number of properties so capped and would minimize the differential between the full CVA and the taxable assessment. TABIA feels that method could work as well, but would be interested in seeing computer modelling on the basis of a numerically fixed limit as outlined before.

In conclusion, we should be emphasizing fairness and not continuing to subject our tax system to the orthodoxy of full CVA.

TABIA Tax Submission to COT Exec Committee 7/17/18 (Full)