

# Administrative Backgrounder

Public Presentation Request

<b>Title</b>	<b>10:00 a.m. MAGA Energy – Request for Tax Agreement</b>
<b>Purpose of Report</b>	To provide Council with background information pertaining to tax accounts owned by MAGA Energy, opportunities for collection, and recent legislative change updates.
<b>Proposed Motion</b>	That Council refer the request from MAGA Energy for a tax agreement to Administration to present information and a recommendation at a future Council Meeting.
<b>Previous Council Direction</b>	None.
<b>Additional Background Information</b>	<p><b><u>New Directive for Unpaid Oil and Gas Property Taxes</u></b></p> <ul style="list-style-type: none"> <li>• A ministerial order recently issued by Alberta Energy to the Alberta Energy Regulator (AER) builds on other actions already taken to support municipalities address unpaid oil and gas property taxes. When applying for new well licences and well licence transfers, companies that have been previously identified by municipalities as having unpaid property taxes must confirm that their outstanding municipal taxes across the province do not exceed the maximum threshold or have a repayment agreement in force. Companies seeking to sell their assets will have to pay their tax arrears first or have them paid as part of the sale.</li> <li>• As of April 30, 2023, payment of municipal taxes is a mandatory condition for approving new well licence transfers between companies or granting new well licences to companies. Under this process, applications will be closed if a company has a cumulative provincial total of unpaid municipal taxes above the threshold. The threshold will be set by the AER in consultation with the ministries of Energy and Municipal Affairs. The purpose of the threshold is to avoid imposing additional red tape on municipalities or companies for very small amounts that may be owing due to administrative issues.</li> <li>• The ability to monitor municipal tax obligations and performance of licensees requires a process to collect information from municipalities.</li> <li>• Sturgeon County has completed their first information sharing process with Municipal Affairs as of May 2023 which included MAGA Energy as an account with tax arrears balances outstanding and would be identified as a Company A in the example below.</li> </ul>

### Examples of a New Licence Application Process

Company	On Municipal Affairs' List?	Municipal Documentation Required?	Taxes Paid or Repayment Agreement?	AER
A	✓	✓	✗	Application closed
B	✓	✓	✓	Application accepted
C	✗	✗	✓	Application accepted

**Note:** This table is intended to illustrate only the effect of considering unpaid taxes. AER considers a broad range of factors when assessing applications.

- If a tax agreement is established (per above Company B), Administration would share this information with Municipal Affairs and the company would then qualify for consideration of a licence.
- If a tax agreement is in default (Company B above), Administration would share this information with Municipal Affairs and the company would not qualify for future licences (Company A above).
  - Administration is still awaiting information from the AER regarding revoking licences if a company defaults on their tax agreement.
  - Legal action is a potential solution for collection when a tax agreement is in place and breached.

### **Bill 77: Municipal Government (Restoring Tax Accountability)**

- Bill 77, also known as the *Municipal Government (Restoring Tax Accountability) Amendment Act, 2021*, was proclaimed into force in December 2021. Bill 77 has been a significant positive development for municipalities with respect to oil and gas tax recovery, because the main effect of the Bill is to amend the *Municipal Government Act* to improve the standing of municipal taxes on linear property.
- Prior to Bill 77, linear property taxes were considered to be an unsecured claim and would be paid out only after all secured creditors, such as the oil and gas company's lender, were paid in full. With Bill 77 in force, there is now section 348.1 of the MGA, which provides that taxes on linear property, as well as machinery and equipment, are a special lien which takes priority over every person except the Crown, and which applies to all the debtor's assessable property located within the municipality. This gives linear property taxes a secured status with a very high priority, which helps to motivate oil and gas taxpayers to address outstanding taxes, including by way of a tax repayment agreement if Council considers that this would be equitable (see section 347 of the MGA).
- Importantly, the special lien does not need to be registered anywhere for it to take effect. Section 348.1 itself is what creates the special lien – the lien arises simply by operation of law, with no requirement for the County to “place” the lien. As soon as the taxes are not paid by the due date, the special lien takes effect automatically.

- The special lien can be registered in the Alberta Personal Property Registry, but this is not a requirement for the special lien to be effective. Rather, the purpose of such a registration would be to provide notice of the special lien to other creditors of the taxpayer, and other parties dealing with the taxpayer. Since the special lien is so powerful in comparison to other creditors' claims, its appearance in the Personal Property Registry may motivate creditors to put pressure on the taxpayer to address the taxes, or even to pay the taxes themselves. If a special lien is to be registered in the Personal Property Registry, it should be described as applying to "all the debtor's assessable property located within the municipality", consistent with section 348.1 of the MGA.

**MAGA Energy Tax Account and Payment Information**

- MAGA Energy contacted Administration in May 2023 to work out a tax payment plan to pay off taxes in arrears, as well as current year taxes.
- As of June 30, 2023, MAGA Energy has tax arrears dating back to 2021 and are summarized as follows:
  - \$232,592.26 in tax arrears
  - \$145,971.30 current year taxes and penalties
- MAGA Energy has proposed to pay \$7,000 per month for the remainder of 2023 and starting in January 2024, \$15,000 per month in addition to all annual tax levies in one lump sum payment on or prior to the last business day in June each year, until all tax arrears are paid. Based on this proposal, their tax accounts would be in good standing by 2026.
- Representatives from MAGA Energy will be in attendance at the July 18, 2023 Council Meeting to present additional information on their request as well as to provide information on future business plans.
- Administration recommends that Council refer the request from MAGA Energy for a tax agreement to Administration to present information and a recommendation at a future Council meeting.

<b>Attachment(s)</b>	<ol style="list-style-type: none"> <li>1. Attachment 1: Presentation Request Form</li> <li>2. Attachment 2: MAGA Energy Presentation</li> </ol>
<b>Report Reviewed by:</b>	<p>Sabrina Duquette, Acting General Manager, Financial Services</p> <p>Reegan McCullough, County Commissioner - CAO</p>