



# Property Tax Assessments on Land Trust Lands

- Ben van Drimmelen

## Introduction

Generally, land trusts protect and conserve natural areas either by owning the land or by negotiating and holding a conservation covenant on such areas. If land is owned, the land trust is potentially liable to pay an annual property tax. Exemption from that tax is possible, but the mechanism varies depending on whether the land is in a regional district or a municipality; each form of governance has its own taxation legislation<sup>1</sup>. Although conservation lands are usually granted an exemption, there have recently been some concerns about the process and efficacy of exemption.

One example involves the Habitat Acquisition Trust in Victoria. Although it relies primarily on covenants, the Trust owns, and has put considerable work into restoration of, one small remnant parcel of Garry Oak ecosystem on the Victoria harbour<sup>2</sup>. The parcel was donated to a partnership among the Habitat Acquisition Trust, the Nature Conservancy of Canada and the Township of Esquimalt. Property tax exemptions were routinely granted by Esquimalt. Startlingly, even though it is a partner in the area, Esquimalt decided in late 2017 to grant only a 50% exemption for 2018. As a result, the Habitat Acquisition Trust suddenly had to try to re-allocate some \$6,500 of very scarce funding to cover the unexpected tax obligation.<sup>3</sup>

Even if tax exemptions are routinely granted, uncertainty can be a big issue. The Fraser Valley Conservancy owns five of its six conservation areas. The Conservancy has to apply to Abbotsford every year to get an exemption<sup>4</sup>. So far, so good, but if exemption were to be denied in future, zoning will determine the tax payable, and Abbotsford, like many municipalities, does not have a conservation category with a low tax rate. As a result, property assessments would be quite high simply because the conservation parcels are located in urban areas. Loss of tax exemption would incur a very prohibitive bill.

The tax assessment problem can also arise in other, less obvious ways. For instance, Salt Spring Island recently considered becoming a municipality. Under the existing governance of the *Islands Trust Act*<sup>5</sup>, the Salt Spring Island Conservancy has a permanent exemption from property tax on almost 300

---

<sup>1</sup> Regional districts are governed under the *Taxation (Rural Area) Act*, RSBC 1996, c. 448. Municipalities operate under the *Community Charter*, SBC 2003, c. 26.

<sup>2</sup> The 1 hectare Matson Conservation Area has camas, sea blush, and other native wildflowers and a forested ravine with Douglas-fir, trailing blackberries and fawn lilies. Species at risk found on this small site include Hooker's onion, Great Blue Heron and Purple Martin.

<sup>3</sup> Ultimately, after HAT representatives had several meetings and a presentation to Council, Esquimalt was kind enough to reverse the decision.

<sup>4</sup> Even if generally exempted, land trusts can be liable for specific property-related service taxes. Abbotsford does not exempt the Conservancy from storm drainage tax, for example.

<sup>5</sup> RSBC 1996, c. 239, s. 6.

hectares of nature reserves, saving \$50,000 or more per year. However, if the Island became a municipality, it would be regulated under the *Community Charter*. Some municipal councils decide to exempt but others do not, so local governance suddenly became a major financial concern for the Conservancy. Even if a future municipal council decided to continue to grant an exemption, the *Community Charter* does not allow a municipal council to grant a permanent exemption; council would have to decide on an annual or multi-year basis. Even with a multi-year exemption, council could do so for a maximum 10-year period.

Property tax exemption is therefore a subtle but serious potential issue for land trusts that own or occupy land, wherever located. This article will briefly describe the law's exemption provisions and how to improve the likelihood that land trusts' conservation lands will remain exempt from the significant burden of property tax.



## Property Assessment Laws

As a starting point, every property owner in the province must pay property taxes unless specifically exempted by provincial statute. The imposition and administration of property taxes depends on the location of the land:

1. If a land trust owns or leases property in a city, town, district or village<sup>6</sup>, it is in one of 162 municipalities.<sup>7</sup> The *Community Charter* applies, and section 197 authorizes councils to impose property taxes each year on all land and improvements in the municipality that are not exempt under the *Charter* or another tax-related Act.
2. If the property is not in a city, town, district or village, it is in a rural area. There, the *Taxation (Rural Area) Act* applies, which provides for the province's Surveyor of Taxes to collect taxes both for provincial services and on behalf of other organizations such as regional districts<sup>8</sup>, improvement districts<sup>9</sup> and the Islands Trust. Those forms of local government do not

---

<sup>6</sup> Section 10 of the *Local Government Act* (see footnote #8 for citation) states that a municipality is a village if the population is not greater than 2,500, a town if the population is greater than 2,500 but not greater than 5,000, and a city if the population is greater than 5,000.

<sup>7</sup> Contact information for the 162 municipalities in BC is available at <https://www.civinfo.bc.ca/municipalities>.

<sup>8</sup> Contact information for the 28 large regional districts (which span nearly the entire geographic area of the province) is available at <https://www.civinfo.bc.ca/regionaldistricts>.

<sup>9</sup> Improvement districts are local authorities responsible for providing services for the benefit of the residents in a community. They vary considerably in size, from small subdivisions to larger communities, and are usually located in rural areas of British Columbia.

themselves have tax collection power but the *Local Government Act*<sup>10</sup> lets regional districts recover costs of specific services (such as building regulation, fire and health protection, drainage and sewerage, waste management and animal control) through property taxes.

3. If the property is on one of the Salish Sea islands that are within the Islands Trust area<sup>11</sup>, a slightly different regime applies under the *Islands Trust Act*. The Trust has some of the powers of a municipality and some of a regional district. It can pass bylaws to regulate the development and use of land but for property taxation the provisions of the *Local Government Act* generally apply. However, there is one unique variation; this statute allows a partial tax exemption for natural areas; it is described below.

Property tax exemptions are listed in the *Community Charter*, the *Taxation (Rural Area) Act*, the *Local Government Act* and the *Islands Trust Act*:

- ✓ Section 220 of the *Community Charter* lists property categories that are automatically exempt from property taxation - properties such as schools and universities, public libraries, places of public worship and hospitals. Significantly, there is no such exemption for properties that are used for conservation or general community benefits. However, there are also permissive (discretionary) tax exemptions under the *Community Charter* whereby municipalities can exempt certain properties from taxation for a specified period of time.

Generally, properties owned by a charitable or philanthropic organization can receive such permissive tax exemptions. Specifically, section 224 of the *Community Charter* allows municipal councils to exempt land owned by a charitable or not-for-profit corporation. However, subsection (4) limits the term of such an exemption to a maximum period of 10 years. Section 225 provides a special category for “eligible riparian<sup>12</sup> property” with no set time limit. Land owned by a land trust could in some cases meet the criteria: it must be riparian land and must have a covenant on it with the municipality as a covenantee. Exemptions for eligible riparian property are set by municipal bylaws and the municipalities are allowed to specify the term of such an exemption.

- ✓ The *Local Government Act* allows no automatic exemptions; all exemptions in that statute are discretionary. Section 391 gives regional district boards the discretion to pass bylaws to exempt various types of property, including schools and universities, places of public worship and hospitals. Section 392 also allows exemptions for heritage properties. These exemption must be renewed annually unless residents vote to allow an exemption for a longer period, up to a maximum of 10 years. Section 394 has similar provisions as the *Community Charter* for regional districts in regard to “eligible riparian property”, but this exemption must be renewed annually (unless residents vote to allow an exemption for a longer period, up to a maximum of 10 years).
- ✓ The *Taxation (Rural Area) Act* automatically exempts some twenty five categories of land in regional districts. Section 15 (q) is highly significant for land trusts; it exempts land and

---

<sup>10</sup> RSBC 2015, c. 1, s. 378.

<sup>11</sup> The area includes 13 major islands and more than 450 smaller islands and waters between the BC mainland and southern Vancouver Island as far north as Comox.

<sup>12</sup> “Riparian” property is property located on the bank of a natural watercourse such as a river. It can also include property alongside a lake or tidewater.

improvements if owned or occupied and used exclusively by a non-profit organization for activities that benefit the community. (Recall that such an exemption is absent from both the *Community Charter* and the *Local Government Act*.) The *Taxation (Rural Area) Act* does not provide for permissive exemptions. This may not be of concern to land trusts because their properties are likely to qualify for automatic exemption under section 15 (q).

- ✓ The *Islands Trust Act* requires the Trust to preserve and protect the trust area and environment. Accordingly, Part 7.1 allows the Trust to pass bylaws (subject to consent by the relevant municipality or regional district) that designate areas for “natural area tax exemption”, another permissive exemption. This is a fully voluntary program which offers 65% tax exemption for land which is protected by a conservation covenant held by the Islands Trust Fund Board. Qualifying land must have special features such as undisturbed natural areas with important ecosystems. The exemption lasts indefinitely, until and unless the designation is cancelled.

In summary, there is a confusing and diverse list of automatic and permissive exemptions from property tax that can affect land trusts that own land. Which regime applies depends entirely upon where the land is located – whether in a municipality or in a rural area and, if in the latter, whether the land is in a regional district or not, with special provisions for property in the Islands Trust area. The following section outlines the processes required to get an exemption.



## Getting and maintaining an exemption

Given the diversity of tax exemption provisions, each land trust must first determine which form of local government (Island Trust, a municipality, a regional district, etc.) regulates each owned property. Then, the land trust needs to determine each jurisdiction’s tax exemption procedures.

Most municipalities provide the necessary information on their website. For example, Abbotsford’s website ([https://www.abbotsford.ca/city\\_services/property\\_taxes/permissive\\_tax\\_exemption.htm](https://www.abbotsford.ca/city_services/property_taxes/permissive_tax_exemption.htm)) explains that permissive exemptions are allowed under s. 224 of the *Community Charter* and outlines eligibility criteria. The site links to relevant policy, sets out (firm) application deadlines and links to application forms. Finally, the site explains that applications for exemption are required annually.

Regional district websites don’t deal with property tax exemptions; they are not authorized to make permissive exemptions. Instead, land trusts in regional districts would need to rely on the automatic exemption under section 15(q) of the *Taxation (Rural Area) Act*. Sparse details of the requirements for qualification for exemption, or confirmation of exemption, can be found at the website for the Surveyor of Taxes (<https://www2.gov.bc.ca/gov/content/taxes/property-taxes/annual-property-tax/understand/location/rural-area>). The site gives some examples of exempt types of property, but does not highlight subsection 15(q), the category of “land owned and used exclusively by a non-profit organization for activities that are of demonstrable benefit to all members of the community”.

However, BC Assessment confirmed<sup>13</sup> that some land trusts in regional districts are currently already exempt under 15(q). Therefore, any land trust that has such property should be entitled to a property tax exemption; if it receives a tax notice, it should notify BC Assessment. (Of course, if a land trust has not received a property tax notice from the Surveyor of Taxes Office in the past, it might be most prudent to let that sleeping dog lie....)

As for islands within the Islands Trust area, the Trust's website (<http://www.islandstrustfund.bc.ca/initiatives/privateconservation/naptep.aspx>) is a good, comprehensive source of information on how the Natural Areas Protection Tax Exemption Program (NAPTEP) works, including eligibility requirements, policy documents and application forms.

## Conclusion

Communities benefit from land trusts' conservation on private land. Whereas land trusts can need not necessarily own land to protect and conserve natural features and rare ecosystems (e.g. – use conservation covenants), land trusts frequently own some parcels. In that case, the fiscal spectre of being liable for property taxes is a potential issue that should be dealt with.

Each land trust should become informed on what the property tax rules and policies are for each owned parcel and ensure that they are prepared to take action to either get or retain exemption. Those rules and policies depend on the location of each parcel. Generally, the land will be in a municipality, a regional district or the Islands Trust area.<sup>14</sup> If so, one of three property tax regimes apply and the basic information is readily available.

Property tax liability is not a situation where ignorance is bliss; it behooves prudent land trusts to be well informed and take action or at least to make contingency plans to deal with the issue should it arise.

---

<sup>13</sup> BC Assessment, personal communication, May 25, 2018.

<sup>14</sup> In rare situations, the conservation land will be on First Nations land or in an improvement district; regardless, the property-owning land trust should engage with the relevant regulatory authority to understand its property tax regime.