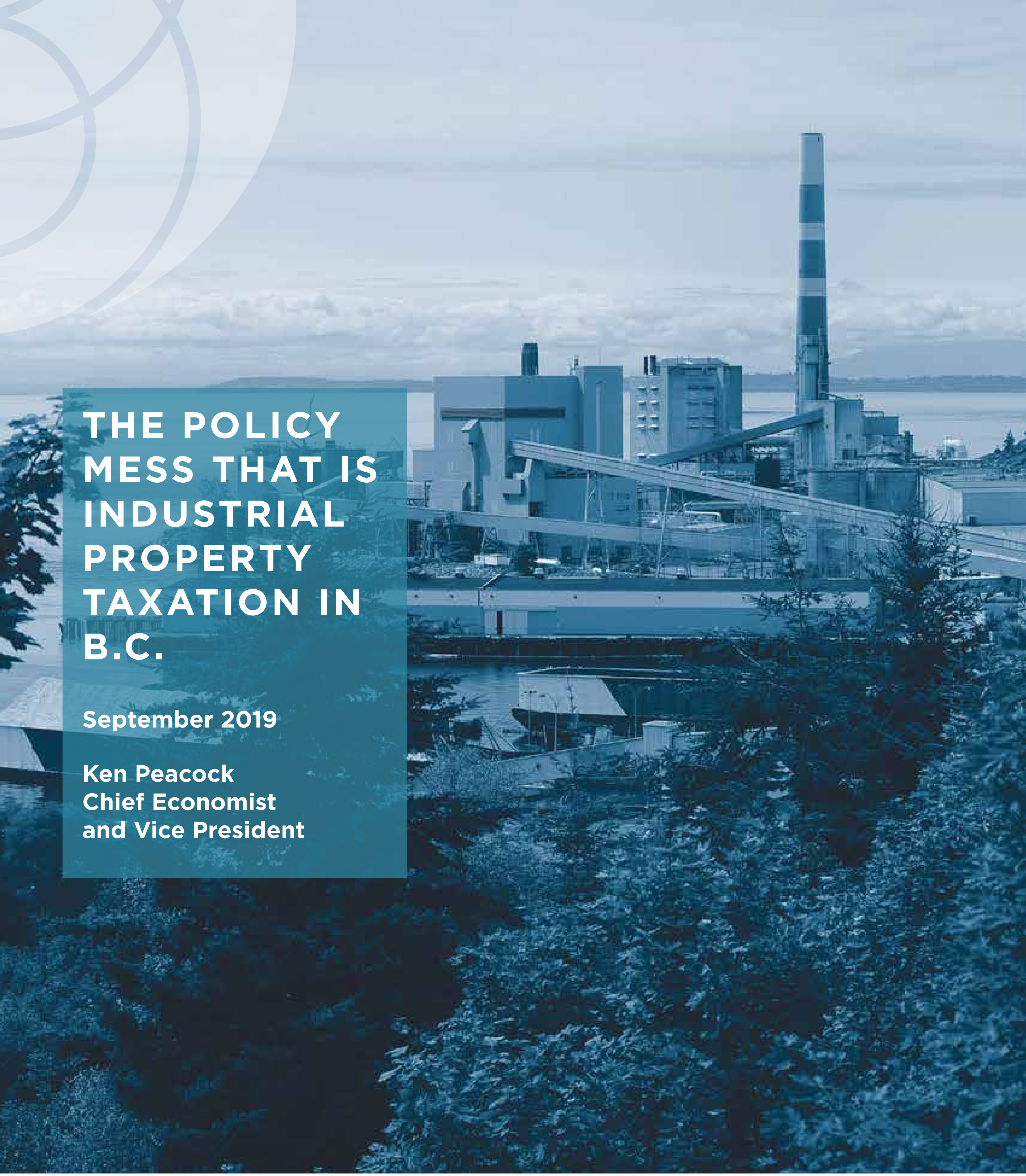


THE POLICY MESS THAT IS INDUSTRIAL PROPERTY TAXATION IN B.C.

September 2019

Ken Peacock
Chief Economist
and Vice President

Business Council *of* British Columbia
Est. 1966

WHERE LEADERS MEET TO UNLOCK BC'S FULL POTENTIAL

INDUSTRIAL PROPERTY TAXATION IN B.C.

Business Council *of* British Columbia
Est. 1966

SEPTEMBER 2019

TABLE OF CONTENTS

COVER IMAGE: Catalyst Paper mill in Powell River, B.C.

INDUSTRIAL PROPERTY TAXATION IN B.C.

Business Council *of* British Columbia
Est. 1966

SEPTEMBER 2019

SUMMARY

Property tax is the most important source of revenue for municipalities in British Columbia. Municipalities have a high degree of discretion in setting property tax rates across the nine property classes. Since B.C. municipalities were granted the unrestricted capacity to set property tax rates, the tax burden has steadily shifted towards non-residential properties and away from residential property owners. At various points and in response to particularly inequitable circumstances, the Province has recognized there are challenges with the system. The level of municipal autonomy that now exists may not be appropriate as provincial interests have not been adequately reflected in the municipal tax rates and the distribution of property taxes among different property classes.

There is clear evidence that Major Industry property tax rates have increased much more rapidly than residential tax rates over the past few decades. The ratio of Major Industry rates to residential rates has also moved up sharply, especially in the first decade after municipalities were given the unfettered ability to set differing rates across property classes.

As business feared when the variable tax system was implemented in the early 1980s, municipal property taxes in B.C. have shifted to heavy industry, as well as other non-residential classes in many municipalities. The issues are complex. Differing assessments, municipal costs, service levels and benefits, and the varying industrial structures of local economies, have all given rise to significant variations in property tax rates and burdens across municipalities. However, Major Industry (Class 4) now bears a disproportionate amount of the tax burden in most municipalities that are home to industrial facilities.

On average, the tax rate for Major Industrial properties in B.C. is nine times that of residential properties. In some municipalities the ratio is as high as 18-20. Rising tax rates (along with higher assessments) mean Major Industrial properties account for an outsized share of property taxes in aggregate, and even more so in some B.C. municipalities. In 2019, municipalities (outside of Metro Vancouver) with Class 4 industrial operations within their boundaries collected $152 million from the Major Industry property class, an

SUMMARY (CONT'D)

amount that represents 11% of all property tax collected in these municipalities. But at the same time Major Industry only accounted for 1.5% of the total assessment roll in the same municipalities.

Arguably, B.C. municipalities have more discretion and flexibility to set tax rates than do municipalities in any other Canadian jurisdiction. This discretion and the high levels of taxation that have resulted undermine B.C.'s overall industrial competitiveness, depress capital investment, and create uncertainty. Although rare, the Province has occasionally found it necessary to intervene into municipal tax matters to limit or restrict taxation on specific property categories. The Province itself uses set ratios to determine tax rates on non-residential property for its own tax purposes. And there are examples of restrictions and "fairness ranges" for property tax rates in other provinces.

The Business Council believes the property tax system in B.C. as it applies to business and industry should be built around certainty, fairness and competitiveness. As it is currently structured, the system falls short on these fundamental criteria. British Columbia's municipalities have more discretion to set property tax rates on different classes of property than municipalities in other provinces, which undermines certainty. While equity and fairness may be more subjective, it is unreasonable to expect Major Industry to continue to bear a disproportionate (and growing) share of the municipal property tax burden. Competitiveness is also a subjective term. But even if it is difficult to define, concerns about the impact of property taxes on capital investment and the viability of industrial businesses are real.

The Business Council proposes that the provincial government work with municipalities to find ways of creating greater long-term tax certainty and improving the competitive environment for capital-intensive industries. This means the Province will need to impose some limits on the ratio of Major Industry to Residential property tax rates. These limits need not be onerous or overly restrictive, but they should provide stability, create more certainty and address legitimate concerns around tax competitiveness. The financial impact on affected municipalities can be moderated by phasing in any changes.

INDUSTRIAL PROPERTY TAXATION IN B.C.

Business Council *of* British Columbia
Est. 1966

SEPTEMBER 2019

THE POLICY MESS THAT IS INDUSTRIAL PROPERTY TAXATION IN B.C.

INTRODUCTION

Property taxes are the primary source of revenue for municipalities in B.C. and Canada more generally. Such taxes have long been a durable and reliable source of revenue for local governments. They have also been a subject of criticism and concern, including issues relating to equity across different types of property and the disproportionate tax burden levied on industrial, utility and commercial properties. Competitiveness, the impact on capital investment, and the uncertainty created by B.C.'s existing property tax system have been longstanding issues in the business community.

In many municipalities in B.C., large discrepancies have developed between industrial property tax rates and residential tax rates, sometimes resulting in a single mill or a small number of industrial operations shouldering a large share of the overall municipal tax burden. Although not all municipalities have major tax disparities, enough do to create a negative image for B.C. generally.

A BRIEF HISTORY OF B.C.'S PROPERTY TAX SYSTEM

The roots of the problem stem back in 1983, when B.C. municipalities were given wide authority to adjust tax rates among different property classes. At the time B.C. municipalities were seeking greater autonomy and flexibility in their management and use of the property tax system. The 1983 change was also intended to better align the taxation of property classes with the services each receives. In many municipalities, however, the property tax system has become increasingly inequitable in the treatment of different types of property. Municipalities' essentially unfettered ability to set tax rates across nine different classes has led to taxes climbing more quickly for certain categories of property.

In many municipalities in B.C., large discrepancies have developed between industrial property tax rates and residential tax rates.

Prior to 1983, assessment ratios were used to determine municipal and provincial property taxes. Under that system, the actual value of a property was determined by B.C. Assessment. This value was then discounted by some percentage or "assessment ratio," to arrive at a "taxable assessed value." The assessment ratios were set by the provincial government and applied uniformly across municipalities. They were also used to determine provincial school and hospital taxes. Different ratios were used for each specified class of property

Once the taxable portion of assessment had been determined, a single tax rate, called the "mill rate," was multiplied by the discounted value in the respective property classes. This system meant that both the provincial and municipal governments had limited flexibility to change the distribution of taxes payable across taxpayers owing different kinds of property.[1]

[1] Harry Kitchen and Enid Slack, "Property Taxes and Competitiveness in British Columbia," Report prepared for the B.C. Expert Panel on Business Tax Competitiveness (May 11, 2012).

In 1983, the Province introduced a **variable tax rate system**. Under this regime, assessed values were set at the full amount of actual property value for all property classes, and the use of "assessment ratios" was abandoned. The new system enabled municipalities to levy general-purpose taxes directly on the value of land and improvements. It also permitted them to set different tax rates for different property classes. This variable rate system was also extended to school, hospital, and other property taxes. Critically, the new flexibility granted to local governments put the issue of the distribution of the municipal tax burden among different property classes squarely in the hands of municipal councils.

At the time, many in the business community opposed the move to a variable rate system, because of concerns that businesses, over time, would face significantly higher tax rates. The business community proposed that the Province define and then impose maximum ratios. Without any restrictions, business leaders feared that in a world where residents are the only voters and business owners have no electoral voice, municipal councils would be inclined to keep residential taxes relatively low and gradually shift the municipal tax burden toward heavy industry and other business property classes. Municipalities opposed putting any restrictions on their ability to determine tax rates. The provincial government of the day accepted the position advanced by municipal representatives.[2]

THE SYSTEM TODAY

In British Columbia annual property tax costs are the product of the taxable assessed value multiplied by the applicable tax rates. The taxable assessed value and the property classification are determined by B.C. Assessment, an independent Crown agency that is legislatively mandated to assess all property in the province at its actual value and on a fair and equitable basis. The tax rates that are applied to the assessed values are set by the individual municipalities. Every year, each municipality adopts a property tax bylaw, whereby the municipality will set its municipal tax rates to raise the revenue required in its financial plan from the different classes of property collectively. The Province and several other taxing jurisdictions also levy property taxes and thus also have an impact on the overall taxes collected from property owners.

A distinctive feature of the B.C. property tax system is the large number of property classes. There are nine distinct property classes in B.C.

A distinctive feature of the B.C. property tax system is the large number of property classes. There are nine distinct property classes in B.C. They are:

Class 1, Residential – single-family residences, multi-family residences, duplexes, apartments, condominiums, recreational property, and some vacant land;

Class 2, Utilities – railways, pipelines, electrical generation or transmission utilities, or telecommunications transmitters;

Class 3, Supportive Housing – housing for persons who were previously homeless, at risk of homelessness, have mental or physical disabilities, or who are recovering from drug or alcohol addictions;

Class 4, Major Industry – lumber and pulp mills, mines, smelters, large manufacturers, ship-building and loading terminals for ships;

Class 5, Light Industry – manufacturing, transport and storage facilities, scrap metal yards, wineries and boatbuilding;

Class 6, Business Other – offices, retail, warehousing, hotels and motels, production of food and non-alcoholic beverages, and properties that do not fall into other business classes;

Class 7, Managed Forest Land – privately-owned, forest land;

Class 8, Recreational Property, Non-profit Organizations – includes land used for outdoor recreational activities such as golf, skiing, tennis, public swimming pools, waterslides, amusement parks, marinas and property used (for at least

[2] Kate Berniaz, "Municipal property tax in BC: Principles and provincial strategies to shape local tax distribution policy," Prepared for the Ministry of Community and Rural Development July 31, 2009.

150 days per year) as a place of public worship or as a meeting hall by a non-profit organization.

Class 9, Farmland - must produce a prescribed amount of qualifying primary agricultural products for sale.

Under Part 7 of the Community Charter, B.C. municipalities have wide authority to tax property owners. Other methods of cost recovery such as user fees may also be employed for various locally-provided services. The cost of service provision varies significantly among local governments depending on factors such as geography, climate, the availability of labour, and the use of third party contracting, so the tax revenue required to provide the service also can vary significantly.

The Community Charter defines the legislative framework for municipalities and gives them the right to levy property taxes, with some limited restrictions. In the Community Charter, section 197 affords municipalities the power to establish different tax rates for each property class.

Province has the authority to set municipal property tax framework

The Province retains the authority to intervene in municipal taxation decisions. The Lieutenant Governor in Council (i.e., the cabinet) can change regulations concerning tax rates that municipalities may establish in their annual property tax by-laws. This includes the ability to:

(a) prescribe limits on tax rates;

(b) prescribe relationships between tax rates;

(c) prescribe formulas for calculating the limits or relationships referred to in paragraph (a) or (b);

(d) allowing the inspector under prescribed circumstances to vary, by order, a limit, relationship or formula prescribed under this section.

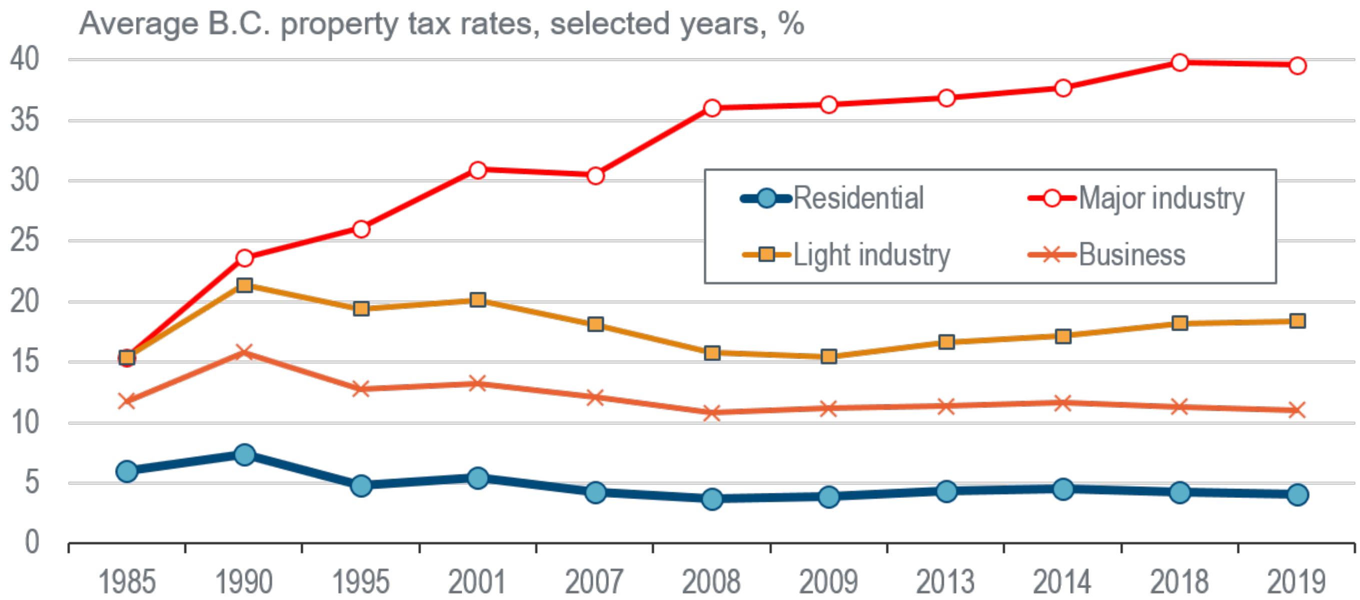
THE EVOLUTION OF PROPERTY TAXES AND THE SHIFTING TAX BURDEN

As business feared when the variable tax system was implemented back in 1983, municipal property taxes in B.C. have indeed been shifted to heavy industry as well as other non-residential classes in many municipalities. The issues, however, are complex for several reasons, including assessments, municipal costs, service levels and benefits. The degree of the shift in the municipal tax burden toward industry and other business property classes also varies significantly across municipalities. However, in general, there has been a substantial shift in the property tax burden towards non-residential property and away from residential property. And among the various non-residential categories, the Major industry class (Class 4) has experienced some of the largest tax increases.

The most significant changes in industrial property tax rates and in the ratio between industrial to residential tax rates occurred in the decade immediately following the 1983 regime change, as heavy industrial tax rates jumped sharply and the ratio of these rates to residential rates roughly doubled overall.

The most significant changes in industrial property tax rates and in the ratio between industrial to residential tax rates occurred in the decade immediately following the 1983 regime change, as heavy industrial tax rates jumped sharply and the ratio of these rates to residential rates roughly doubled overall. In the subsequent decade, industrial property tax rates continued to climb, but at a somewhat more modest pace. Over the most recent decade, the picture is more mixed. Some municipalities have restrained increases in property taxes on heavy industrial properties, and a number have taken steps to lighten the property tax burden on large industrial operations. But notwithstanding these efforts by certain municipalities, over the past decade the average industrial property tax rate charged in B.C. has continued to edge higher, and the share of all municipal property taxes paid has continued to tilt towards the Major Industry class.

FIGURE 1: **MAJOR INDUSTRY TAX RATES HAVE CLIMBED SHARPLY**



Source: Kate Berniaz, "Municipal property tax in BC: Principles and provincial strategies to shape local tax distribution policy" for early years and Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

The figure above depicts the evolution of average property tax rates in B.C., showing selected years going back to 1985. Average tax rates for the Major Industry class rose from roughly 15% to just over 25% between 1985 and 1995, a ten-percentage point increase. Over the next ten years, the average rate for Major Industry increased another five percentage points. And over the past 12 or so years, the Major Industry rate rose a further five percentage points. So, since the variable rate system was implemented, the average Major Industry tax rate levied by B.C. municipalities has gone from 15% to 40%. The average rate for the Light Industry class has also moved higher, but much less so – rising from 15% to 18.4% over the same period. In contrast the general Business rate and the Residential rate are both down slightly.

Tax ratios are also a widely used metric to gauge differences across property classes. A tax ratio is the relationship between the tax rate of one non-residential property class compared to the tax rate for Class 1 (residential properties). For example, if a municipality's tax rate for Cass 1 is 2% and is 10% for Class 4 (heavy industry), the ratio of Class 4 to Class 1 is 5:1. Limits on these ratios are sometimes used in other jurisdictions to restrict the ability of local councils to place a disproportionate amount of the local tax burden on heavy industry or other business property classes. But that is not the case in B.C.

Although average tax rates provide insight into the way the property tax system has evolved, ratios arguably are more useful. This is because tax rates are set based in large part on assessments. As is the case in the residential class, rates can fall while actual tax revenue increases because of escalating assessment values. Ratios, on the other hand, reflect changes in tax rates relative to the Residential class.

As Figure 2 on the next page shows, in the first decade following the implementation of the B.C. variable rate system, the average Major Industry ratio went from 2.7 to 6.1. It then rose further to peak at 9.5 in 2008. While the same ratio is now slightly lower than it was ten years ago, it still sits at 9, which means Major Industry property tax rates are nine times the residential rate.

FIGURE 2: **MAJOR INDUSTRY TAX RATIO HAS MORE THAN TRIPLED**

Source: Kate Berniaz, "Municipal property tax in BC: Principles and provincial strategies to shape local tax distribution policy" for early years and Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

PICTURE IS MIXED ACROSS MUNICIPALITIES

Some municipalities have recognized the inequity that has evolved in the property tax system and have reduced their heavy industry rates in recent years. This is evident in the following figure, which shows the 2009 and 2019 Major Industry tax ratios for each municipality reporting heavy industry property tax revenue. The names of the municipalities are not shown because we are interested in system-wide patterns and trends rather than changes at the level of individual municipalities.

From the figure it appears there are:

- 21 municipalities where the Major Industry/Residential tax ratio fell between 2009 and 2019;
- 18 where the ratio is essentially unchanged; and,
- 32 where the ratio has risen over the past decade.

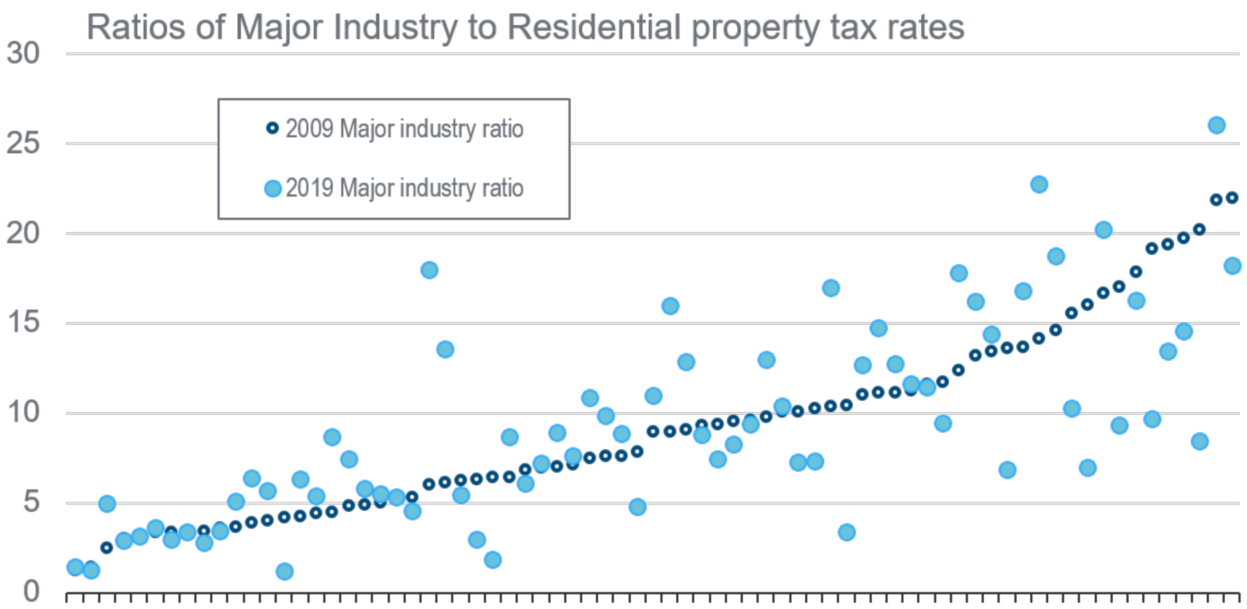
Heavy industry pays disproportionate amount of property tax

Based on the changes in tax rates and tax ratios discussed above, it is unsurprising that an examination of actual municipal property tax revenues confirms that heavy industry properties bear a disproportionate portion of the municipal tax burden and that their burden continues to increase.

There are 162 municipalities in B.C. reporting financial data. Municipalities provide detailed reports on their finances to the Ministry of Municipal Affairs and Housing. Among all municipalities, just 71 show tax revenue from heavy industry properties. The other 91 municipalities – many quite small -- apparently do not have any heavy industry operations to tax.

Excluding the municipalities in Metro Vancouver, there are 59 municipalities reporting tax revenue from heavy industry properties. The inventory of land within municipal boundaries is comprised largely of residential land. There are many

FIGURE 3: **THE HEAVY INDUSTRY TAX RATIO IS STILL RISING IN MANY MUNICIPALITIES**



Source: Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

TABLE 1: **ASSESSMENTS AND TAX REVENUE FOR ALL MUNICIPALITIES REPORTING HEAVY INDUSTRY PROPERTY TAX (EXCLUDING METRO VANCOUVER)**

	2014				2019			
	Assessments (taxable value)	Municipal property taxes	Share of all assessments	Share of all property taxes	Assessments (taxable value)	Municipal property taxes	Share of all assessments	Share of all property taxes
	$ millions		%		$ millions		%	
Residential	148,465.2	639.2	82.7	56.6	246,474.4	803.1	84.8	57.8
Utilities	893.1	27.1	0.5	2.4	1,057.5	33.8	0.4	2.4
Supportive Housing	0.0	0.0	0.0	0.0	0.0	-	0.0	0.0
Major Industry	**3,551.1**	**125.2**	**2.0**	**11.1**	**4,326.2**	**152.4**	**1.5**	**11.0**
Light Industry	2,313.2	38.3	1.3	3.4	2,892.9	40.5	1.0	2.9
Business/Other	23,920.8	296.9	13.3	26.3	35,309.0	356.1	12.1	25.6
Managed Forest	18.7	0.3	0.0	0.0	37.1	0.7	0.0	0.0
Recreation	325.2	2.0	0.2	0.2	417.2	2.2	0.1	0.2
Farm	105.7	1.0	0.1	0.1	107.1	0.8	0.0	0.1
Totals	179,593.1	1,129.9	100.0	100.0	290,621.3	1,389.7	100.0	100.0

Source: Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

Since the Province gave municipalities an unrestricted ability to set tax rates across property classes, the heavy industry category has experienced a disproportionate increase in taxes.

residential structures for every commercial or industrial building. Property tax revenue raised by municipalities reflects the reality that most privately held land within municipal boundaries is residential. However, the distribution of property taxes is not balanced, nor is it aligned with assessed values.

The table on page 6 summarizes the property taxes in B.C. municipalities with heavy industry property tax revenue. Municipalities in Metro Vancouver are not included in these totals. The table shows the total assessed land values and the amount of tax paid in each of the nine property categories for the 59 municipalities. The table also indicates the proportion of assessments for each property category and the proportion of total property taxes that each category accounts for. These data are provided to allow for a quick comparison of the respective shares across classes.

What emerges from the table?

- Consistent with the comparatively large increase in tax rates and the high tax ratios discussed above, the heavy industry property class now accounts for a disproportionate amount of local government property tax revenue;
- This outsized tax burden is evident from the facts that:
    - most recently, the Major Industry class accounted for just 1.5% of all assessments in the 59 municipalities;
    - but across the same municipalities, Major Industry contributed 11% of all property tax revenue;
- Heavy industry's share of all property taxes has remained essentially the same over the past five years;
- However, heavy industry's share of assessments was 2.0% in 2014 but fell to 1.5% in 2019, meaning that proportionally heavy industry's tax burden rose over the past five years (this is consistent with the previously noted increase in the tax ratio over the same period);
- This proportional increase is underscored by the fact that in 2014, heavy industry's share of property taxes was 5.6 times greater than its share of all assessed land value, and by 2019 the sector's share of taxes rose to 7.4 times its share of assessed land value;
- Note that the residential class accounts for 85% of total property assessments, but only pays 58% of all municipal property taxes;

Finally, we can look at the growth in assessments and taxes in the different property categories. In most property classes, the percentage increase in assessments is greater than the percentage increase in property taxes (meaning mill rates were adjusted downwards because large increases in assessments provided municipalities with additional revenue). There are two exceptions, however – the Major Industry class, where assessed values and property taxes both increased by 21.8%; and, the Utilities category, where the growth in property tax revenue was substantially greater than the increase in assessments. (This highlights the fact that the Utilities class, like the Major Industry class, typically shoulders a disproportionate share of the municipal property tax load.) The details of these changes are shown in the table below.

In sum, the since the Province gave municipalities an unrestricted ability to set tax rates across property classes, the heavy industry category has experienced a disproportionate increase in taxes. While most of the shift occurred in the two decades following the 1983 changes, an examination of trends in property tax revenues confirms that, on average, the tax burden has continued to shift

TABLE 2: GROWTH IN ASSESSMENTS AND PROPERTY TAXES

	Assessments	Property taxes
Residential	66.0	25.6
Utilities	18.4	24.7
Major Industry	21.8	21.8
Light Industry	25.1	5.8
Business/Other	47.6	20.0
Recreation	28.3	10.5
Totals	61.8	23.0

Source: Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

towards heavy industrial properties, albeit at a more gradual pace.

Some restrictions and other limits have been put in place in B.C.

Since the variable rate system was introduced in 1983, the property tax system in B.C. has evolved in a way that has brought some unintended consequences and at times generated controversy. Initially, municipalities continued to use ratios similar to those applied by the provincial government with respect to rural property taxation, but as shown in the previous section, after a decade of the variable rate system being in place the average ratio between non-residential and residential property tax rates more than doubled. Although not shown in the above figures, the ratio for the Utility class property tax rate relative to the residential class followed a very similar pattern.[3] These rising ratios prompted concern within the business community and led to pressure on the provincial government to address the growing inequity. Ultimately, the province did impose limits by capping taxes on the Utilities class (class 2) in 1996.

The seeds of this intervention were sown a decade earlier, when the assessment and taxation of railway property was restructured. Railway corridors were initially assessed at values similar to immediately adjacent property. In 1986, in an attempt to reduce railway assessments and stabilize the escalating property taxes paid by rail companies, the Province introduced a standardized per kilometer assessment procedure for railways.[4] Under the new practice, the value

TABLE 3: SUMMARY OF ASSESSMENT CATEGORIES AND MUNICIPAL TAX STRUCTURE BY PROVINCE

Province	Assessment Categories	Municipal Tax Rates
British Columbia	9 classes	Municipal tax (mill) rates set by local councils -- variable tax rates allowed across classes
Alberta	4 catgories	Local councils can levy different rates across categories
Saskatchewan	7 categories*	Municipal rates set by local councils – variable tax rates allowed across categories (and subcategories)
Manitoba	10 classes (incl. 3 residential classes)	Municipal tax (mill) rates set by local councils. Differential tax rates across classes are not permitted, except in Winnipeg
Ontario	7 main property classes**	Municipalities may set differential rates across classes, but fairness ranges related to the residential rate limit a municipality's flexibility in setting differential rates
Quebec	Properties are not diffentiated except for farms, natural gas electricity and telecommunications	The general property tax rate is set by local councils without provincial restrictions. Councils can levy up to 6 tax rates depending on the property category: residential, multi-residential (six or more units), commercial, industrial, vacant land, and residual
New Brunswick	2 categories	Municipalities set own local property tax rates but the non-residential rate must be equal to 1.5 times the residential municipal tax rate
Nova Scotia	3 categories	Municipalities set tax rates locally – one for residential and one for commercial
Prince Edward Island	2 categories	Each municipality sets two municipal property taxes - one for commercial assessment and another for non-commercial assessment.
Newfoundland & Labrador	3 categories	Tax rates are set locally. The province places no restrictions on tax rates

* cities may set additional sub-classes for residential and commerial/industrial

** municipalities are permitted to adopt additional classes

Source: Ministry of Municipal Affairs and Housing, local government statistics for 2008-2019.

[3] Harry Kitchen and Enid Slack, "Property Taxes and Competitiveness in British Columbia", Report prepared for the B.C. Expert Panel on Business Tax Competitiveness (May 11, 2012).

[4] Kate Berniaz, "Municipal property tax in BC: Principles and provincial strategies to shape local tax distribution policy," Prepared for the Ministry of Community and Rural Development July 31, 2009.

Since the variable rate system was introduced in 1983, the property tax system in B.C. has evolved in a way that has brought some unintended consequences and at times generated controversy.

of an entire rail corridor is estimated and then distributed evenly along the corridor. Rural corridor land, which had a low assessed value under the adjacent property method, saw significant assessment increases. On the other hand, urban rail land (with high assessed value) saw assessments fall. In response, urban municipalities tended to increase their Utility tax rate (mill rate) to offset the decline in assessed value, while rural municipalities generally kept their rates in place, which resulted in substantial revenue increases. Despite government's intention, the overall outcome was that railway companies paid more in property taxation in both urban and rural municipalities.

The government's attempt to rationalize the assessed value of railway property had been offset with higher municipal property tax rates. Railway companies saw the resulting taxes as excessive, hindering their ability to compete with U.S railways, discouraging new investment in B.C. terminals and railway track, and even threatening their economic viability. In 1995, pressure to address the Utility property class tax issue intensified when the new West Coast Express rail service between Mission and Vancouver started to operate.

The B.C. government again intervened. Changes in assessment practice were introduced to lower railway taxable values. But this time the government also limited Utility (class 2) rates so that the earlier experience of offsetting municipally-imposed tax rate increases was not repeated. Invoking the equivalent legislation to the current section 199 of the Community Charter, the Province capped property tax rates on Utility property at $40 per $1,000 of assessed value or 2.5 times the municipality's class 6 rate, whichever rate was higher (Taxation Rate Cap for Class 2 Property Regulation, 1996). Municipal tax rates for Class 2 could not exceed the greater of $40 per $1000 assessed value and 2.5 times the Class 6 property rate set by the municipality. These changes were phased in from 1997 to 2000 for specific municipalities.[5]

A similar situation then arose with respect to the taxation of port property. In the case of B.C. ports lands which were part of class 4 industrial property, the province stepped in to cap property tax rates because of what policy-makers deemed to be he strategic importance of port facilities. Prior to 1984, class 4 industrial rates were limited to a ratio of 3.5 to 1 compared to residential rates. After the variable rate system was introduced, the ratio had climbed to 11 to 1 by the mid-1990s, which translated into $38 per $1,000 of assessed value. Research also showed that B.C. ports were taxed at much higher rates than their competitors.[6]

The Ports Property Tax Act was introduced in 2004. The legislation limited the property tax rate on port property to $27.50 per $1,000 of assessed value for five years, and limited the tax rate on new investment to $22.50 per $1,000 of assessed value for 10 years.[7] In 2008, the limit on port property tax rates was extended to 2018, and the limit on the tax rate for new investment was extended to 2019 (Ports Property Tax Act). After a strong negative municipal reaction to the tax limits on Utility property (class 2), the Provincial government provided monetary compensation to the municipalities affected by the ports property tax rate limits. As outlined in the legislation, each of the seven affected municipalities received between $40,000 and $1.3 million annually from the Province for the years 2004-2008. When the limits were renewed in 2008, the monetary compensation was extended to 2018, with increases based on inflation.

The Provincial government uses set tax ratios

The B.C. government collects property tax of its own to fund schools and policing. The School tax rates are set annually by order-in-council. A province-wide rate is set for each non-residential class. The residential (Class 1) rate varies between school districts based on population and the assessment base. Municipalities with populations over 5,000 pay for most of their police costs directly through their municipal taxes. But in municipalities under 5,000 people, and

[5] Harry Kitchen and Enid Slack, "Property Taxes and Competitiveness in British Columbia," Report prepared for the B.C. Expert Panel on Business Tax Competitiveness (May 11, 2012).
[6] Kate Berniaz, "Municipal property tax in BC: Principles and provincial strategies to shape local tax distribution policy," Prepared for the Ministry of Community and Rural Development July 31, 2009.
[7] Ports Property Tax Act, s.3, s.4.

TABLE 4:
PROVINCIAL TAX RATIOS

The current provincial tax ratios relative to the Class 1 rate are as follows:	
Class 1 (Residential)	1.0:1
Class 2 (Utilities)	3.5:1
Class 3 (Supportive Housing)	1.0:1
Class 4 (Major Industry)	**3.4:1**
Class 5 (Light Industry)	3.4:1
Class 6 (Business Other)	2.45:1
Class 7 (Managed Forest Land)	3.0:1
Class 8 (Recreation Property, Non-Profit Organization)	1.0:1
Class 9 (Farm)	1.0:1

Source: https://www2.gov.bc.ca/gov/content/governments/local-governments/finance/requisition-taxation/local-government-taxation/property-value-taxes/other-government-authorities-property-value-taxation.

in rural areas, the B.C. government sets tax rates to recover a portion of police costs. These tax rates are based on provincially-set tax ratios. Municipalities also set tax rates for other authorities. When doing so they must set the tax rates based on the same provincial tax ratios, which are established by the *Municipal Tax Regulation*.

As shown in Table 4, the provincial ratio for Major industry relative to residential properties is 3.4:1. Recall that the average municipal ratio for the same Major industry property class is 9:1.

MUNICIPAL TAX CONCESSIONS

Revisions to the Community Charter in 2004 provided additional flexibility for municipalities in taxation matters. Section 226 of the Community Charter provides authority to exempt property from municipal property taxes. To use this authority, a Council must establish a revitalization program, enter into agreements with property owners, and then exempt their property from taxation. Exemptions may apply to the value of land or improvements, or both. Councils are free to specify, within their revitalization programs, the amounts and extent of tax exemptions available. Municipalities have taken advantage of the revitalization tax exemptions for a variety of purposes. Some have provided exemptions for Class 4 properties in order to encourage investment in new/existing facilities or to maintain industrial activity.

City of Powell River

In 2001 the Pacifica pulp and paper mill in Powell River was taken over by NorskeCanada. The kraft mill was closed in 2001 and the City of Powell River was approached by NorskeCanada for tax relief on the pulp and paper mill located in the community. At the time, property taxes on the mill amounted to $5.2 million and accounted for over half of the city's tax revenue.[8] In 2003 the local council decided to reduce the mill's property taxes by $200,000 annually for five years to help the company lower costs and maintain employment.

The company was renamed Catalyst Paper in 2005. Catalyst's financial performance was substantially affected by the 2008 recession and property tax once again became a significant issue for the company. On July 1, 2009, Catalyst paid $1.5 million to each municipality where its mills are based, along with school and other taxes collected by the municipalities on behalf of other government authorities. In total the company paid $6 million for its four mills, down from $23 million. The company advised the municipalities it would not pay the balance of taxes owing.[9]

The company launched an unsuccessful court challenge against the municipalities to appeal its tax bills. In 2010 Catalyst announced that it would pay its full municipal property tax bill in three of the four municipalities that host its B.C. mills, but it sought leave from the Supreme Court of Canada to appeal a recent court decision involving North Cowichan.

The property tax issue in Powell River was resolved through an agreement in principle with Catalyst in April 2010. The agreement reduced the property taxes paid by Catalyst on its mill in the community. But it also assisted the city in reducing its capital expenditures for future municipal service infrastructure, because the company sold the city the unoccupied mill administration office building and the associated lands for a nominal price. The city and Catalyst also agreed to explore a variety of joint economic development initiatives. The agreement resulted in a $1.47 million reduction in the company's property taxes in 2010. Over the next five years the city continued to reduce taxation levels for industrial properties, with a goal of achieving average provincial taxation levels for the heavy industry tax class.

[8] Davies Transportation Consulting Inc., Wave Point Consulting Ltd. And Lane Property Advisors Inc. "Major Industrial Property Taxation Impacts," prepared for Union of British Columbia Municipalities and BC Ministry of Community, Sport and Cultural Development, January 31, 2011, p. 20.
[9] Catalyst Paper https://www.catalystpaper.com/page/municipal-property-taxation, Municipal Property Tax Situation, January 29, 2009.

Grand Forks

In May 2005 the City of Grand Forks passed a bylaw to enact a Major Industrial Revitalization Tax Exemption Area and Program for Class 4 properties in a specified area encompassing three Class 4 properties: the Pope and Talbot sawmill, the Roxul Inc. rock wool manufacturing facility, and the Canpar Industries particle board mill. The program provided for a five-year tax exemption (2005 to 2010) for major improvements greater than 10% of the current assessed value, with taxes to be phased in over the following five-year period. The program included provisions for a five-year extension, which has been implemented. The only local firm which took advantage of the incentive was Pope and Talbot.

Castlegar

In July 2009 Zellstoff Celgar notified the City of Castlegar that it was suing the city for unjust taxation. It also indicated it was refusing to pay $3.2 million the company owed in property taxes that year. At the time, the lone pulp mill accounted for 45% of Castlegar's tax revenue. The dispute was resolved in March 2010 when the two parties signed a Memorandum of Understanding (MOU) with five key points:

- Celgar agreed to withdraw its court action against the city;
- Celgar agreed to pay all outstanding taxes, penalties and interest;
- Castlegar agreed to reduce taxes by $350,000 the first year and by $110,000 over the next two years. It would also consider another $190,000 reduction thereafter;
- Both parties agreed to approach the Province to jointly request that the city be allowed to increase taxation on dams within city limits, using the funds partly for general city costs and partly to further reduce Major Industry taxes;
- The city agreed to pass a revitalization tax exemption bylaw discounting, for Major Industry operations, the increased assessed value resulting from capital investment. In October 2010 the City of Castlegar adopted Revitalization Taxation Exemption Bylaw No. 1130. The bylaw sets out conditions for a tax exemption for a maximum period of 10 years based on a minimum annual investment of $500,000. The amount of the exemption is 100% of the difference between the 2010 tax level and the tax payable in the year for which the exemption is granted.

Mackenzie

The District of Mackenzie was among the B.C. communities hardest hit by the forestry downturn in 2008. All of the community's mills were shut down, including two sawmills and a paper mill owned by Abitibi Bowater, the Pope and Talbot pulp mill, and the Canfor lumber mill.

In 2009 the District negotiated a tax reduction with Canfor to facilitate reopening of the company's local sawmill. The Canfor Revitalization Tax Exemption Bylaw was passed in October 2009. It specified that, in return for continuing operations at the plant, the city would grant a tax exemption of municipal property taxes owed for that year or $150,000, whichever was lower. Further, the city exempted all additional municipal property taxes payable resulting from any increase in the assessed value of land or improvements of the property in question. In exchange, Canfor agreed to minimum levels of employment and operations at the mill over the two-year term of the agreement. In July 2010 Conifex acquired the former Abitibi sawmills and associated timber tenures, and the paper mill. Conifex indicated that it intended to dispose of the paper mill assets. The former Pope and Talbot pulp mill was acquired by Paper Excellence in 2010. Tax reduction agreements similar to the Canfor agreement were subsequently negotiated with these companies as well.

The District of Mackenzie was among the B.C. communities hardest hit by the forestry downturn in 2008. All of the community's mills were shut down, including two sawmills and a paper mill owned by Abitibi Bowater, the Pope and Talbot pulp mill, and the Canfor lumber mill.

In 2009 the District negotiated a tax reduction with Canfor to facilitate reopening of the company's local sawmill.

Ontario uses fairness ratios to limit differences across classes

In the mid-1990s, the city of Toronto was facing challenges in raising sufficient property tax revenue. The city's tax base was eroding, in part because of successful assessment appeals. There was also growing concern that high levels of property taxes were pushing businesses out of the jurisdiction.[10] The Greater Toronto Area Task Force was created by the Ontario government to examine these concerns. The Task Force recommended that actual value property assessment be implemented in the city.

In 1998 the Ontario government introduced uniform property assessment based on market value across the entire province.

In 1998 the Ontario government introduced uniform property assessment based on market value across the entire province. It was recognized that the use of current value assessment would result in large shifts in the tax burden within and between classes of property. To ease the burden of the anticipated shift, transition ratios were calculated on each property class to reflect the relative distribution of the burden by tax class prior to the reform. The transition ratios were then used in conjunction with phase-in mechanisms and tax deferrals to address potential abrupt shifts in the tax burden.

In conjunction with the new assessment approach, changes to taxation policy were also introduced. Prior to the reform, municipalities in Ontario had to charge residential properties a rate equivalent to 85% of the non-residential rate. After the reform, municipalities were allowed to levy variable tax rates for different property classes, within ranges of "fairness." Critically these fairness ranges prescribe the ratios between residential and other property classes within which local governments could set taxes. Municipalities have a considerable amount of flexibility regarding tax ratios but are restricted from setting ratios that diverge further from "target" ranges of ratios prescribed in provincial tax policy. With the exception of farms, managed forests, and multi-residential properties, the ranges are between 0.60 and 1.10 relative to the residential class ratio.[11] Critically, if a municipality has tax rates that are higher than the ratios, it may continue to charge those rates, but cannot increase them further away from the range of fairness.

EXTERNAL REVIEWS AND RECOMMENDATIONS

The issue of industrial property taxes has been addressed in a couple of reviews of tax competitiveness in B.C.

The Competition Council

The B.C. Competition Council, co-chaired by former Premier Dan Miller and former Teck-Cominco CEO David Thompson, was established to develop recommendations for industry and government that would improve British Columbia's competitiveness.

In its final report, the Competition Council report concluded that "[t]he property tax imposed on Major industry (Class 4) by some municipalities has reached the point where it is having a serious impact on the competitiveness of industry in those regions." It highlighted this issue and in its final report emphasized the need to "[a]ddress the disincentive to investment as a result of high municipal property taxation rates for the major industry property class … in some municipalities."[12] The report went on to say that the fact that tax rates can be adjusted by municipalities each year with no Provincial oversight and no restrictions creates significant uncertainty for companies with industrial operations within municipalities across B.C. This uncertainty is compounded because there is no process to appeal perceived unfair rates of taxation in B.C.

In its June 2006 report, the Council recommended:

> "that municipalities reduce the tax burden on the major industry property class particularly where the ratio of industry versus residential is high."

[10] Enid Slack, Understanding the evaluation of property tax policy. Prepared for the Canadian Property Tax Association Inc. Annual National Workshop. October 2, (2000).
[11] "Property Taxation in Ontario: A Guide for Municipalities," Municipal Finance Officers' Association of Ontario, p.23.
[12] B.C. Competition Council, "Enhancing the Competitiveness of British Columbia (June 2006), p.18.

The Council went on to say:

"If this is not done, the Province needs to take the lead in consulting on and implementing required changes: Some possible solutions include:

- reducing the number of categories of property tax into one or two categories of business tax that would include both industry and services;
- imposing a ratio by which the municipal tax rate on industry and business cannot exceed that of the tax rate on residential homes."

B.C. Commission on Tax Competitiveness (2016)

The conclusions of the Commission on Tax Competitiveness are somewhat more sanguine, but property taxes were identified as a concern. Based on the evidence reviewed, the Commission found that neither the overall level of business property taxes in B.C. is a major competitiveness issue.

Importantly, however, the Commission also indicated "that the flexibility given to local governments to set whatever level of property taxes they choose results in competitiveness issues in some municipalities at some times."[13] The Commission also recognized that the issue is more acute for Class 2 Utilities and Class 4 Major Industry properties. "High tax rates and uncertainty about future tax rates have an impact on the province as a whole because they create a disincentive to invest or reinvest in facilities, leading to reduced employment opportunities and provincial income tax revenues."

As noted, Provincial initiatives have been implemented to partially address this issue for certain properties. Limits have been placed on municipal property tax ratios related to Utilities Class property, which includes railways, pipelines, and telephone lines and some port properties because of significant provincial interests in encouraging investment in these properties.

RECOMMENDATIONS AND FINAL THOUGHTS

Since giving municipalities full discretion in setting property tax rates in the early 1980s, the Province has mostly removed itself from decisions and policy around municipal property tax matters. However, the features of the somewhat unusual B.C. system have prompted the Province to intervene on a few occasions. When the Provincial government has asserted its authority in municipal property taxation, it has focused on issues of excessive taxation and has responded through the introduction of tax rate limits in certain areas. From the business perspective, provincial policy has been inconsistent, ranging from a complete absence of involvement to strong intervention in a handful of cases.

As noted at the outset, in a system where residents vote for local representatives, councils will respond to residents' views and have an incentive to restrain residential taxes. Over time this may well lead to a tilting of the overall municipal tax burden toward large industry and other business property classes. This is precisely what has happened in British Columbia.

In a system where residents vote for local representatives, councils will respond to residents' views and have an incentive to restrain residential taxes. Over time this may well lead to a tilting of the overall municipal tax burden toward large industry and other business property classes. This is precisely what has happened in British Columbia.

An examination of municipal property tax rates over the past few decades demonstrates that non-residential tax rates and tax ratios for the heavy industry class relative to residential properties have increased markedly. In municipalities with heavy industry, this class continues to pay a disproportionate amount of municipal property tax. An examination of revenue raised across different classes confirms that the aggregate property tax burden continues gradually to shift towards heavy industry and away from residential properties. The business community believes there is a problem with B.C.'s property tax system. Research points to significant inequities. It also identifies concerns about competitiveness and the role of high rates of industrial property taxes deterring investment in some communities.

[13] Commission on Tax Competitiveness, "Improving British Columbia's Business Tax Competitiveness," (November 2016), p.41.

The Business Council believes the property tax system in B.C. as it applies to business and industry should be built around a few key principles:

- Certainty - perhaps most critically, businesses and investors require reasonable certainty about taxation. Investments in industrial facilities and projects are long-term, multi-million-dollar propositions. A key factor in making such investment is some certainty around the tax bill. Property taxes are a fixed cost that companies pay irrespective of the business cycle and profits. Unduly onerous property taxes become even more evident during downswings in the economic cycle.
- Equity and fairness - business believes in paying their share of property taxes. For many companies in smaller communities, having a fiscally sound municipal government and high-quality local amenities are important to attract and retain workers and their families. However, in some communities the local property tax bill has been tilted heavily and unfairly towards industry.
- Competitiveness – most of the large industrial properties in the smaller resource dependent communities sell their products into global markets. For these operations, it is vital that they are cost competitive. The Business Council believes the property tax issue needs to be viewed through a competitiveness lens. B.C. companies are competing on a global scale, and the province must be cost competitive for these operations to succeed and to continue to attract new business investment.

The system in B.C. falls short based on the above principles. Arguably, British Columbia's municipalities have more discretion to set property tax rates on different classes of property than municipalities in other provinces in Canada, which undermines certainty. While equity and fairness may be more subjective, it is unreasonable to expect Major industry to continue to bear a disproportionate (and growing) share of the property tax burden. Competitiveness is also a subjective term. But even if it is difficult to define, concerns over how property taxes can deter investment have arisen on a number of occasions and Provincial government intervention has occurred in a few instances.

The Business Council urges the Province to work with municipalities to find ways of creating greater long-term tax certainty and improving the competitive environment for capital-intensive industries. At the same time, we believe the Province needs to impose some limits on the ratio of Major Industry to Residential property tax rates. As is the case in Ontario, this could be done with the use of "fairness ranges." The financial impact on affected municipalities can be moderated by phasing in any changes. As was the case with the B.C. Ports Property tax intervention, some provincial compensation may also be warranted over a transition period as municipalities that have overtaxed industry move toward a more equitable model.