REPORT
1997 JULY 07

CITY OF BURNABY
COMMUNITY HERITAGE COMMISSION

HIS WORSHIP, MAYOR DRUMMOND
AND COUNCILLORS

RE: Tax Laws Related to Heritage Buildings

RECOMMENDATION:

1. THAT Council endorse the resolution, attached as APPENDIX "A" to the report recommending amendments to the Income Tax Act regarding heritage buildings.

REPORT

BACKGROUND

The Community Heritage Commission, at its meeting held on 1997 January 22 received correspondence from the City of Victoria pertaining to tax laws related to heritage buildings. The Commission subsequently requested the Director Finance to clarify the issues of taxing heritage and provide an opinion on whether tax laws provide an incentive to destroy heritage conservation initiatives.

Terminal Loss Provision

The Income Tax Act provides owners of commercial buildings the ability to expense (write-off) portions of the building each year thereby lowering their taxable income and consequently lowering the amount of income tax they pay each year. This provision is called Capital Cost Allowance (CCA).

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As an example, the owner of a $1,000,000 building is allowed to expense 4% of the Capital Cost of the building each year.

Year	**Expense (CCA 4%)**	**Remaining**
1	year of purchase	$1,000,000
2	$ 40,000	960,000
3	38,400	921,600
4	36,864	884,736

Since the allowed deduction is always based on the remaining balance the balance virtually never reaches zero. The remaining balance can all be written off in the year that the building is demolished, this is called the *Terminal Loss Provision*.

In the case of the building above, in the fourth year, (at 25% tax rates) the tax saving would be $9,216 (25% of the $36,864) but if the owner decided to demolish the building the tax saving would be $221,184 (25% of $884,736). This Terminal Loss Provision provides a fairly strong incentive for owners to demolish older buildings especially if they are uneconomical to operate or difficult to lease due to their age.

Tax Treatment of Restoration Costs

The Income Tax Act draws a distinction between maintenance costs and costs for work that provides a longer term benefit.

Maintenance costs are generally considered to be repair work for every day wear and tear on the building. These costs can be wholly written off as expenses each year thereby lowering the income of the building and lowering the income tax payable.

The cost of work that provides a longer term benefit, like restorations, are only allowed to be expensed at a prescribed percentage rate per year (like the Capital Cost Allowance described above). This results in less of a tax advantage for doing restoration work. If owners were allowed to expense the entire cost of the restoration in the year the work was done there would be a greater tax saving and therefore a greater financial incentive to do the restoration work.

Capital Gains and Donations of Real Property

If a painting were bought (movable property) for $1,000, kept for a number of years and found that it had cultural significance to Canada (say, was painted by one of the Group of Seven) it could be evaluated by the Canadian Cultural Property Export Review Board. The Review Board would certify that it had cultural significance and attest to its value; say $100,000. If it were then decided to donate it to the city or other qualified agency you could take the $100,000 as a deduction from your income when calculating income tax and save a great deal of income tax that would be otherwise payable.

In the case of a building (immovable property) the same can be done as referred to above but a person would be responsible for paying income tax on the $99,000 capital gain ($100,000-$1,000).

CONCLUSION

The Community Heritage Commission therefore recommends that Council write to the Federation of Canadian Municipalities requesting they petition the Federal Government to amend the Income Tax Act in order to provide incentives for the retention, restoration and donation of heritage buildings in Canada; and further, that the City of Victoria be so advised.

Respectfully submitted,

Councillor Doreen Lawson
CHAIR

Councillor Celeste Redman
VICE CHAIR

Re: Amendments to the Income Tax Act: Heritage Buildings

WHEREAS the terminal loss provision of the Income Tax Act provides an incentive to demolish buildings that, potentially, have heritage value; and,

WHEREAS treating heritage building restoration costs as capital improvements under the Income Tax Act does not provide as much of a financial incentive to do restoration work as would treating them as maintenance costs; and,

WHEREAS the capital gains provisions of the Income Tax Act as they are applied to the donation of heritage buildings (immovable property) provide significantly less incentive for donation than the Income Tax incentives for movable property.

THEREFORE, BE IT RESOLVED that the Federation of Canadian Municipalities be requested to petition the Federal Government to amend the Income Tax Act in order to provide incentives for the retention, restoration and donation of heritage buildings in Canada; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the City of Victoria.