

Tax Incentives

1. News Release, Office of the Premier, May 9 2003: *Northern Ontario Declared Tax Incentive Zone*

Ernie Eves, Ontario's Premier, today announced that the province's first and largest tax incentive zone will encompass all of northern Ontario. "Tax incentive zones will attract new and growing businesses to Ontario, creating a stronger economy in smaller, rural and northern communities," said Eves. "They will give our young people the opportunity to live, work and raise a family in the communities where they grew up."

Tax incentive zones were initially announced in the 2002 Throne Speech and Budget. They are designed to encourage both large and small businesses to invest and expand in smaller, rural and northern communities. They also support the government's Smart Growth strategy of building strong, vibrant and prosperous communities all across the province.

Today's announcement means that eligible businesses locating in northern Ontario would not be required to pay provincial business education tax, capital tax or employer health tax. Municipalities will be asked to provide full municipal property tax relief for all eligible businesses. These tax incentives will be in place for 10 years beginning January 1, 2004.

2. Jacqueline Hansen, *Why Toronto won by losing its bid for Amazon's new headquarters*, CBC.ca 11/13/18

There's something Toronto didn't do, though: woo Amazon with financial incentives. Even though Amazon was worth more than \$1 trillion US earlier this year, as the battle between cities heated up, some tried to lure the company with billions of dollars in tax breaks and other enticements. In the end, both cities that will share the new Amazon HQ2 were more than willing to ante up to play the game, with New York offering around \$1.525 billion US in tax breaks and wage subsidies, and Virginia kicking in \$573 million worth of incentives of its own.

"It's disgusting," said Richard Florida, who was on the board to craft Toronto's bid, but resigned in order to speak out against cities that were putting expensive carrots on the table, and to try to convince them to compete on merit only... An influx of thousands of workers could create costly problems for a city, from driving up housing prices, to crowding public transit. "If Amazon's going to come you don't want to give them anything — you want them to be a partner in addressing many of the issues they're going to create," said Florida...

Cities that compete for professional sports teams often roll out a red carpet and offer incentives such as subsidizing new stadiums. But according to Stanford economics professor Roger Noll, it's never worth it. "In terms of local economic activity, there's essentially zero benefit," said Noll.

The Amazon case is more complicated though, because unlike a sports franchise, Amazon will derive most of its revenue from outside the chosen city and attract a high-end labour force that pays more taxes and spends money locally. "It's probably better for a community to buy Amazon, than a basketball team ... but it's still a huge amount of money to pay and extremely unlikely to be worth it," Noll said.

Toronto likely would've needed to match the other cities' massive incentives in order to win, which would've been a bad deal for the city, he said. "It's never worth multiple billions, and Toronto should be proud of itself that it didn't win this."

3. J. Fraiberg and E. Pressman, *A Canadian Understanding of Director Duties*, Globe and Mail Jan. '09

Although the Supreme Court said that in considering what is in the best interests of the corporation directors "may" look to the interests of various stakeholders (including shareholders, employees, creditors, consumers, governments and the environment), in practice directors will need to consider the impact of their decisions on affected stakeholders. This is because the Supreme Court found that the duty of directors to act in the best interests of the corporation "comprehends a duty to treat individual stakeholders affected by corporate actions fairly and equitably".

4. Our questions

- Offering tax incentives for business investment suggests that there are other ways in which these corporations support society. Is it ethical to accept contributions to society, like investment, as "in kind" ways of paying taxes?
- Tax incentives are applied unevenly, favouring new businesses or businesses of a particular size over others. Does government have the right to legislatively favour one sector of the population?

- A region which offers tax incentives undercuts neighbouring regions at its own immediate expense. Is this a fair form of competition?
- Companies often decide to locate in a particular region even without the incentive; may they accept it anyway?

"In Kind"?

5. Professor Neil Brooks, *The Logic, Policy, and Politics of Tax Law*, pp. 50-51

At the most basic level, we have taxes because we have governments. Collecting taxes is simply one of the ways that the government has to achieve its broad social and economic objectives... The efficient allocation of resources, and thus the maximization of social welfare, is the normative government objective that preoccupies economists.

6. Talmud, Bava Batra 7b-8a

משנה: כופין אותו לבנות בית שער ודלת לחצר... כופין אותו לבנות לעיר חומה ודלתים ובריה... כמה יהא בעיר ויהא כאנשי העיר? י"ב חדש. קנה בה בית דירה הרי הוא כאנשי העיר מיד.

גמרא: ... וא"ר אסי אמר ר' יוחנן הכל לפסי העיר ואפ"ל מיתמי, אבל רבנן לא דרבנן לא צריכי נטירותא. אמר רב פפא לשורא ולפרשאה ולטרזינא אפילו מיתמי, אבל רבנן לא צריכי נטירותא. כללא דמילתא כל מילתא דאית להו הנאה מיניה אפילו מיתמי.

Mishnah: We compel him to participate in building a guardhouse and door for the yard... We force him to participate in building a wall, doors and a bolt for the city... How long must one be in the city, to be considered a resident? 12 months – but once he buys a residence, he is a resident immediately.

Gemara: ...Rabbi Asi cited Rabbi Yochanan: Everyone, even a minor orphan, gives to the city's defenses – but not rabbis, as they do not require protection. Rav Pappa said: For a wall, patrols and armour guards, even minor orphans pay, but not rabbis, as they do not require protection. The general rule: Whoever benefits pays, even minor orphans.

7. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law, Choshen Mishpat 176:25

ובני העיר בענייני צרכי העיר הם כשותפין...

The residents of a city are viewed as partners in any municipal need...

8. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Choshen Mishpat 290:15

אין פוסקים עליהם צדקה, אפילו לפדיון שבויים, מפני שמצות אלו אין להם קצבה. מיהו אם פסק עליהם צדקה לאחשובינהו כדי שיצא עליהם שם טוב, והם אמודים לכך, שפיר דמי.

We do not assess orphans for *tzedakah*, even to redeem captives, because these mitzvot have no limit. But if he assesses them for *tzedakah* to give them status, so that they will develop a good reputation, and they can afford it, this is fine.

Favouring a Particular Sector

9. Talmud, Bava Kama 113a

מתני' אין פורטין לא מתיבת המוכסין

גמ' והאמר שמואל: דינא דמלכותא דינא! אמר רב חנינא בר כהנא אמר שמואל: במוכס שאין לו קצבה; דבי ר' ינאי אמרי: במוכס העומד מאליו.

Mishnah: One may not make change using money from the tax-collector's box [it is viewed as stolen material]...

Gemara: But didn't Samuel say, "The law of the kingdom is the law?" Rabbi Chanina bar Kahana cited Samuel as specifying: This [mishnah] speaks regarding a tax collector who does not have a fixed amount. In the yeshiva of Rabbi Yannai they said: This [mishnah] speaks regarding a self-appointed tax collector.

10. Rabbeinu Asher (13th cent. Germany, 14th cent. Spain) to Nedarim 3, per Beit Yosef Choshen Mishpat 369

פירש רבינו תם הא דאמרו דינא דמלכותא דינא היינו דוקא כשהמלך משהו גזירותיו על כל בני מלכותו אבל אם הוא משנה למדינה אחת לאו דינא הוא
Rabbeinu Tam explained that we only honour government law when the king applies his decrees equally for all members of his reign. Where he changes for one nationality, this is not law.

11. Rabbi Joseph Colon Trabotto (15th century Italy), Maharik 194

פשיט' דשפיר מקרי משהו מדותיו כיון שכל יהודי פורע בשוה דבר קצוב

Obviously, it is called "applying equally" where every Jew pays the same fixed amount.

12. Rabbi Yosef Eliyahu Henkin (20th century New York), Kitvei Rav Henkin, Teshuvot Ivra 96:11

הכוונה כשמפלה בין עם לעם משום רשעות... שלא בצדק אלא בשרירות לב

This refers to distinguishing between nations for wicked reasons... not justly, but out of cruelty.

13. Rabbi Yisrael Isserlein (15th century Austria), Terumat haDeshen 341

חזינן דכל המושלים רגילים בפשיטות בזה שהם תדירים לתבוע בקשות ולהטיל אנגריא, אדעתא דהכי אנו קובעים דירה תחתיהם ומקבלים עלינו את עולם ומשאם, והווי כולהו מעתה דינא דמלכותא דינא

We see that all rulers regularly do this, continually making demands and issuing orders. We establish our dwelling in their places and accept their yokes and burdens upon ourselves knowing this, and so all of this is honoured as government law.

Undercutting a Neighbour

14. Talmud, Bava Metzia 60a-b

משנה: רבי יהודה אומר לא יחלק החנוני קליות ואגוזין לתינוקות מפני שהוא מרגילן לבא אצלו וחכמים מתירין. ולא יפחות את השער וחכמים אומרים זכור לטוב....

גמרא: ולא יפחות את השער וחכמים אומרים זכור לטוב וכו' מאי טעמא דרבנן? משום דקא מרווח לתרעא.

Mishnah: Rabbi Yehudah said: A store owner may not distribute parched grain and nuts to children, for this would accustom them to come to him. But the Sages permit.

[Rabbi Yehudah said:] And he should not reduce the rate. But the Sages say: He is remembered for the good.

Gemara: What is the logic of the sages? This will cause the rate to broaden.

15. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law, Choshen Mishpat 156:7

י"א הא דבני העיר יכולין למחות בבני עיר אחרת, היינו דוקא בדליכא פסידא ללקוחות, שמוכרין כשאר בני העיר וגם סחורתם אינה טובה יותר משל בני העיר, אבל אם נותנין יותר בזול, או שהיא יותר טובה, שאז נהנין הלוקחין מהן, אין מוכרי הסחורות יכולים למחות....

Some say that the ability of local people to protest against people from elsewhere is only where that [protection] would not harm consumers – the outsiders sell as the locals sell, and their merchandise is no better. But where the outsiders charge less, or their merchandise is better, so that consumers benefit, then [local] merchants cannot protest...

16. Rabbi Shlomo Yehudah Tabak (19th century Romania), Erech Shai to Choshen Mishpat 156:5

ואם מוזיל כדי להזיק לחבירו, על דעת "גם לי גם לך לא יהיה", ואפילו עושה כן כדי שחבירו יתן לו דמים, ודאי כופין על מדת סדום....

And where he reduces in order to harm the other, thinking, "Neither I nor you will gain," then even where he does this in order to induce the other to pay him, we compel him not to act as Sdom.

17. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Choshen Mishpat 228:18

וכן יכול למכור בזול יותר מהשער, כדי שיקנו ממנו, ואין בני השוק יכולים לעכב עליו

One may sell for less than the rate, so that people will buy from him; the other merchants cannot prevent this.

Accepting an Unnecessary Incentive

18. Talmud Yerushalmi, Peah 1:1

פעם אחת אבדה ישפה של בנימין, אמרו מאן דאית ליה טבא דכוותה? אמרו אית ליה לדמה בן נתינה. אזולן לגביה ופסקו עמיה במאה דינר, סליק ובעי מייתו להו ואשכח אבוה דמיך. אית דאמרין מפתח דתיבותא הוה יתיב גו אצבעתיה דאבוה, ואית דאמרין ריגלוהי דאבוה הוות פשיטא על תיבותא. נחת לגבון אמר לון לא יכילית מייתותי לכון. אמרי, דילמא דו בעי פריטון טובא? אסקוני' למאתים אסקוני' לאלף. כיון דאיתער אבוה מן שינתיה, סליק ואייתותי לון, בעון מיתן ליה בסיפקולא אחרייא ולא קביל עלוי. אמר, מה אנא מזבין לכון איקרא דאבהתי בפריטין? איני נהנה מכבוד אבותי כלום! מה פרע ליה הקב"ה שכר? א"ר יוסי בי רבי בון בו בלילה ילדה פרתו פרה אדומה ושקלו לו כל ישראל משקלה זהב ונטלוה.

Once, the *yashfeh* stone of the tribe of Benjamin was lost. The sages asked, "Who has a gem like that?"

They were told: Dama ben Netinah.

The sages went to him, and told him they would pay him 100 *dinar*. He left to bring the gem, but he found that his father was sleeping. Some say his father had the key for the safe in his fingers; others say his father's leg was resting on the safe. Dama went back to the sages and told them, "I can't bring it to you."

The sages said, "Maybe you want more money? We will give 200! We will give 1000!"

When his father woke up, Dama went and brought them the gem. They wanted to give him what they had promised at the end, but he wouldn't take it. He said, "Would I sell my father's honour to you for coins? I do not want to make money from honouring my father!"

How did Gd pay him back? That night, his cow gave birth to a red cow, and the Jews paid him its weight in gold, and he took it.