RMA
RURAL MUNICIPALITIES of ALBERTA

March 2022

UNPAID OIL & GAS TAX SURVEY

Summary

In January and February 2022, the RMA requested all members to complete a survey providing an update on their unpaid oil and gas tax burden. The survey builds on previous member input on this issue in 2021, 2020, and 2019.

This briefing provides an overview of the survey results, as well as an update on the RMA's advocacy efforts on this issue.

Survey Response Rate

All of the RMA's 69 member municipalities responded to the survey. This **100% response rate** speaks to the importance of this issue across the province and the accuracy of the final data collected.

Survey Results

- Rural municipalities are currently facing an overall unpaid oil and gas property tax burden of **$253.7 million**.
- This represents a **3.3% increase** from the overall amount in the RMA's 2021 member survey, a **46.7% increase** from the RMA's 2020 member survey, and a **213.2% increase** from the RMA's 2019 member survey.
- The average RMA member is facing an unpaid tax burden of **$3,676,657** from the oil and gas industry.
- Six municipalities have unpaid tax burdens **above $10,000,000** from the oil and gas industry.
- Two municipalities have no unpaid tax burden from the oil and gas industry, and an additional five municipalities have an unpaid tax burden below $100,000.
- Municipalities have written off nearly **$131 million in unpaid taxes** since 2015**.**
- Still-operating oil and gas companies are responsible for **48% of the unpaid taxes** from the oil and gas industry.
- RMA members currently have repayment agreements in place with industry for an **additional $43 million in unpaid taxes.**

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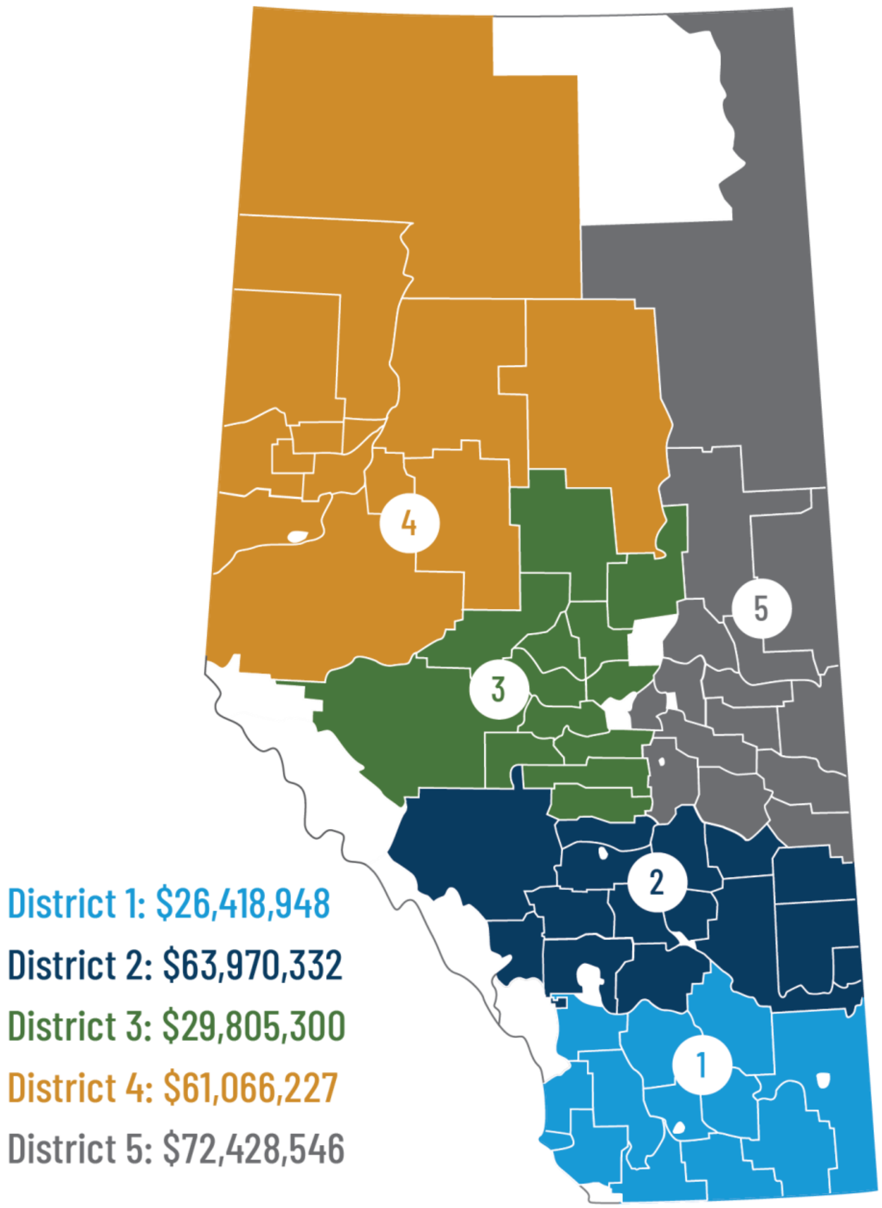
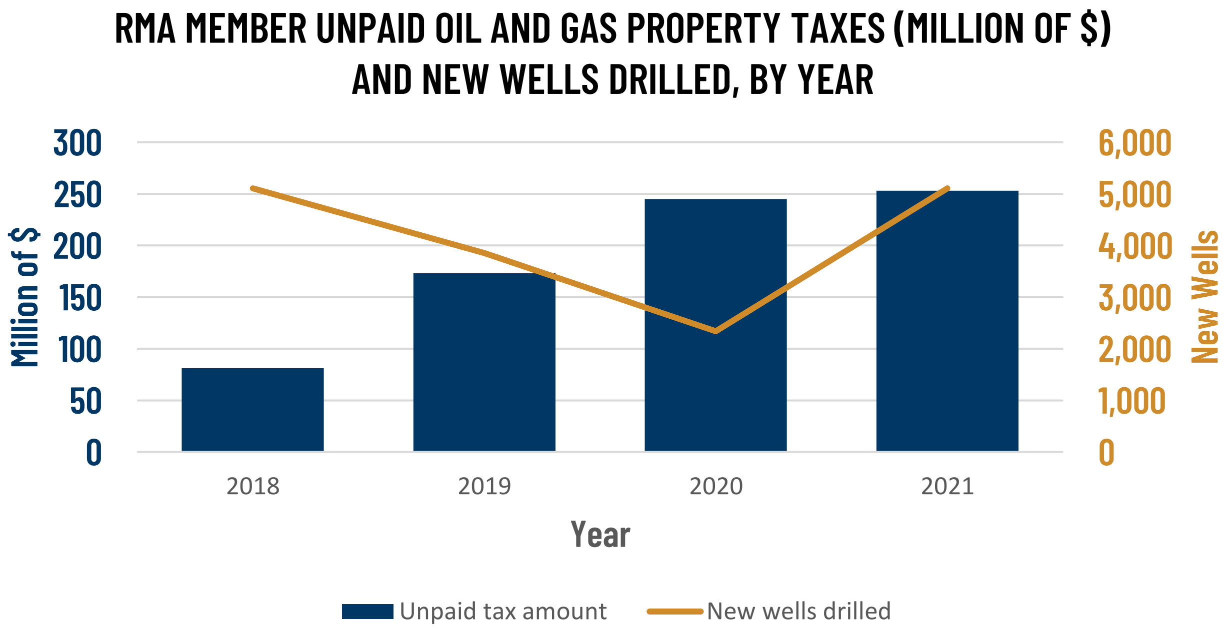
Unpaid Oil and Gas Property Taxes by District

Unlike some issues, which only impact municipalities in some regions of the province, the issue of unpaid taxes from the oil and gas industry is truly provincewide, as shown below:

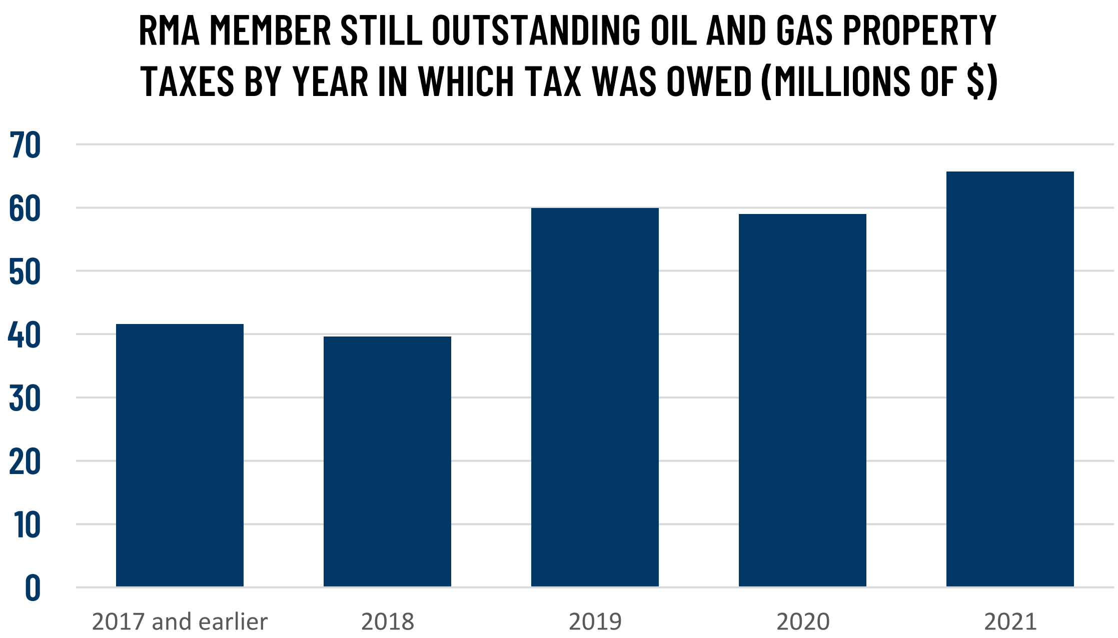


Unpaid Oil and Gas Property Taxes by the Numbers

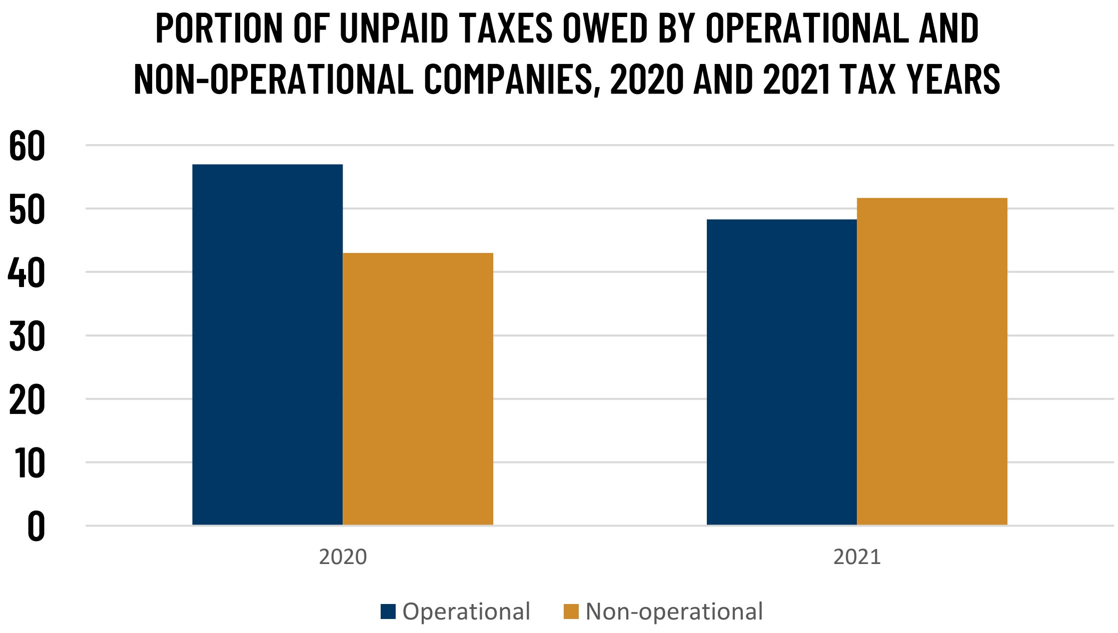
While the overall amount of unpaid taxes owed to rural municipalities continues to grow, there are other interesting trends to consider. The three charts below demonstrate three different dimensions of the issue:



While the increase in unpaid taxes from 2020 to 2021 was much more modest than growth in previous years, comparing that to broader growth in the industry tells a different story. From 2018 – 2020, the rate of unpaid taxes tended to grow at an inverse rate to the number of new wells drilled in the province; as unpaid taxes increased, new wells decreased. This suggested that perhaps the unpaid tax issue was linked to the industry's general struggles. However, this connection disappeared in 2021. Even as new well drills increased by a whopping 135% from 2020 to 2021, unpaid taxes continued to increase. While the industry's recovery meant that companies paid their current year's taxes at a higher rate than previously, clearly this did not extend to meeting unpaid tax obligations from previous years.



The table above shows the unpaid taxes from each tax year. While the highest amount is in the most recent year (2021), most unpaid taxes are from 2020 or earlier. In fairness, a large portion of these taxes have been written off and will never be collected. However, the overall amount of written off taxes reported in the 2021 tax year is $131.6 million, just a $9.1 million increase from 2020. This suggests that municipalities are continuing efforts to recover unpaid taxes, even those initially incurred several years ago.



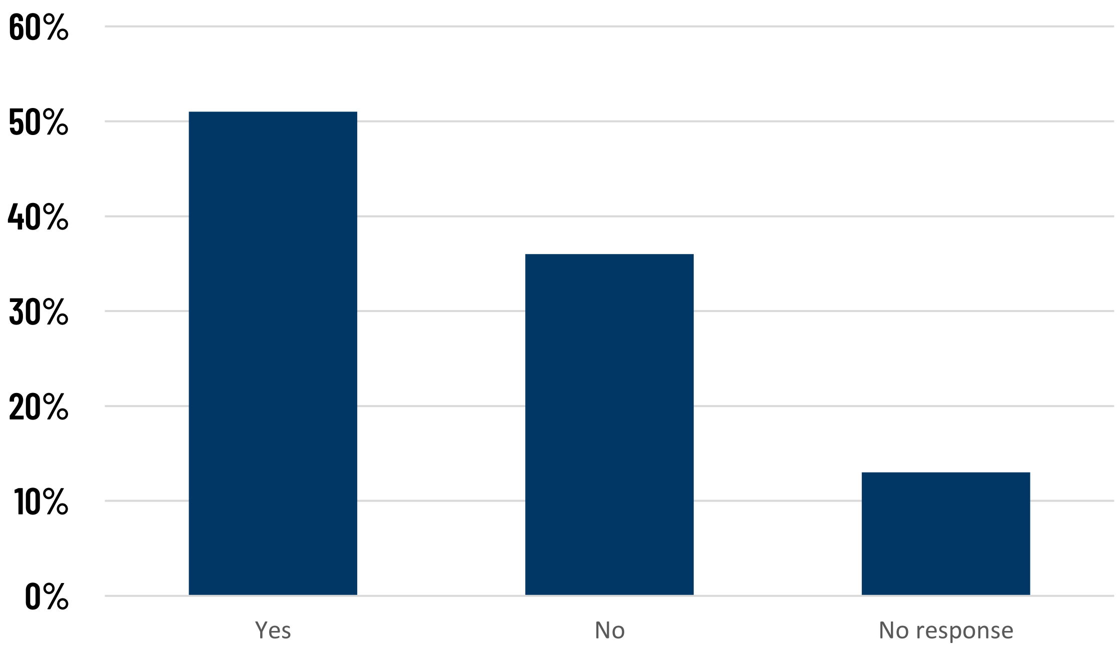
The table above shows the portion of unpaid taxes owed by companies that are currently operational and non-operational. A significant shift in this area occurred between the 2020 and 2021 tax years, during which the portion unpaid taxes belonging to non-operational companies increased significantly, from about 43% to 52%. This suggests that as more active companies are paying their current taxes, an increasing number of companies with taxes outstanding are entering into bankruptcy or otherwise ceasing operations without meeting these obligations.

Are special liens the answer?

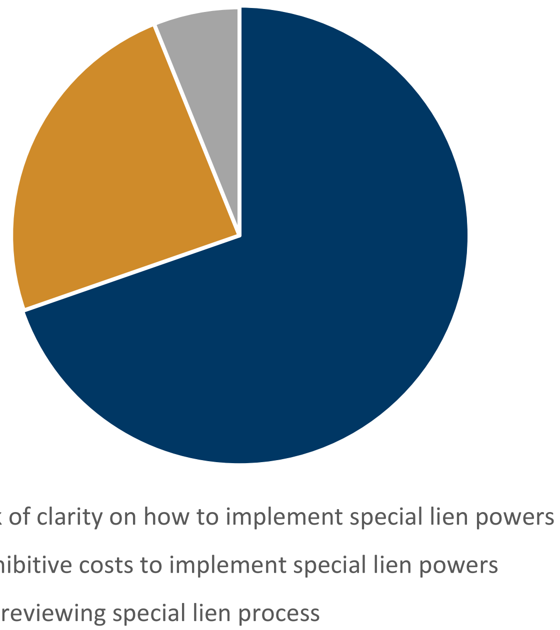
In late 2021, the Government of Alberta amended the *Municipal Government Act* to clarify the ability of municipalities to place special liens on owners and operators of linear or machinery and equipment property on which property taxes were owing. The changes are an important step towards holding oil and gas companies accountable for unpaid taxes; however, they by no means solve the problem completely, and there are serious doubts as to how effectively the special lien powers can be implemented.

The RMA's survey asked respondents to indicate whether they plan to implement the new special lien powers, and what barriers or challenges may impact implementation.

Does your municipality expect to implement the special lien powers?



What barriers and challenges may impact your municipality's ability to utilize the special lien powers?



Roughly half of respondents are hoping to implement special liens as a tool to recover some unpaid oil and gas property taxes but require more information on how to properly use them. Many respondents indicated that they lacked the expertise to seize oil and gas properties, and that the possible legal risks and costs may outweigh the tax revenues recovered.

These responses speak to the need for additional clarification from the Government of Alberta on how municipalities can effectively use the powers without inheriting liabilities and risks associated with oil and gas properties.

Seeking Solutions

The survey results indicate that the amount of unpaid taxes owed by the oil and gas industry to municipalities continues to rise, even as oil prices reach historic highs, new well drills increase significantly, and the province's overall economic outlook seems to improve each day.

Rural municipalities are critical to supporting the oil and gas industry. They provide the infrastructure needed to dig new wells, build pipelines, and maintain existing assets. Increased industry activity increases strain on municipal infrastructure, requiring new roads and bridges to provide access to development opportunities. Despite this, rural municipalities face an average of well over $3 million in outstanding taxes from the oil and gas industry, which is being subsidized by other taxpayers in the municipality in the form of increased tax rates or reduced service levels.

While the Government of Alberta has previously assumed that oil and gas companies did not pay property taxes because they lacked the ability to do so while remaining operational, what the economic recovery has shown is that the issue is less a lack of ability, and more a lack of interest. While most oil and gas companies are excellent corporate citizens that operate accountably to the municipalities in which they operate, those that continue to ignore their property tax obligations either don't care about meeting their obligations or are so poorly managed that they continue to struggle even in the current economic environment.

In either case, solutions are needed quickly. While the Government of Alberta clarified municipal special lien powers, and the Alberta Energy Regulator (AER) recently implemented Directive 067 – which allows it to consider the property tax payment performance of a company when approving a licence application – neither have appeared to make a meaningful difference.

As Alberta's oil and gas industry is provincially regulated, the AER holds the power to address non-payment of property taxes. The Government of Alberta has delegated the regulation of the industry to the AER under the mandate of ensuring that all Albertans receive economic benefits from oil and gas development. However, their hands-off approach to property tax non-payment has resulted in millions of dollars in taxes not being paid in nearly every rural municipality in Alberta. This revenue could have been used to upgrade infrastructure, enhance community services, invest in economic diversification initiatives, and for many other purposes. Instead, it has remained with companies and shareholders because no one with the power has been willing to take meaningful action.

The RMA will continue advocating to the Government of Alberta to direct the AER to implement solutions to this issue, including the following:

- Rather than relying on industry to self-report on property tax payment, develop a mechanism to allow municipalities to regularly submit property tax payment information to the AER, and to easily share concerns related to companies not paying taxes.
- Update Directive 067 to specifically include full payment of all municipal taxes owed by a company as a requirement of any licence approval or transfer.
- Do not allow the transfer of ownership of a specific asset if there are any outstanding taxes attached to the asset.
- Update Directive 088 to specifically identify non-payment of municipal taxes as a factor in determining a company's licensee capability assessment (LCA).
- Collaborate with the RMA to educate and support rural municipalities in safely and effectively utilizing special lien powers.