

MEMORANDUM

To: Regional Chair Emmerson and Members of Regional Council

From: Jason Li
Acting Commissioner of Finance and Regional Treasurer

Date: June 16, 2021

Re: Optional Small Business Property Subclass Update

At the January 14, 2021 meeting of the Committee of the Whole, staff provided a [memo](#) that outlined the Covid-19 Property Tax Relief Measures for Businesses that were introduced as part of the 2020 Provincial Budget. Among the measures discussed was the creation of an Optional Small Business Property Subclass that could reduce the property taxes for eligible small businesses.

The recently established subclass provides municipalities with significant flexibility

On May 7, 2021 the Province established the new Optional Small Business Property subclass through Ontario Regulations 331/21 under the Assessment Act, 332/21 under the Municipal Act, and 333/21 under the City of Toronto Act.

Below are the key features of the program for two-tiered municipalities:

Overview of Discount Program as Specified In Provincial Regulations

- The subclass reduction can apply to commercial and/or industrial property tax rates, excluding parking lots, vacant land property, and the “large industrial” property class
- The prescribed range of the discount is 0 to 35%
- The discount can be funded broadly across all property classes or within commercial and/or industrial property class through the adoption of revenue neutral ratios
- Municipalities are provided with the option to require landlords to pass the tax reduction to tenants as an eligibility condition

- The properties can be identified through a criteria-based determination process and/or an application-based process
- The discount program can be administered through a criteria-based determination process and/or an application-based process
- Separate subclasses with different criteria rules and discount levels may be established for:
 - Each lower-tier municipality within the upper-tier jurisdiction
 - Different geographic parts of a municipality

Program Administration

- The upper-tier municipality must pass a by-law to adopt the subclass
- Properties must be listed in a publicly accessible registry
- The upper-tier municipality is required to appoint a “Program Administrator” who would be an employee of either the upper tier or local municipality to:
 - determine which properties qualify for inclusion in the subclass, including approving or declining applications should the municipality implement an application process as part of the adoption of the subclass
 - inform the property owners of the determination of their inclusion in the subclass
 - provide the Municipal Property Assessment Corporation with a list of properties included in the subclass
 - review any initial requests for reconsideration
- The upper-tier municipality must also appoint an “Appellate Authority” to review hear appeals of the Program Administrator’s eligibility decisions

Provincial Matching Reduction in Education Taxes as Per Ministry of Finance Communication

- Municipalities are “strongly encouraged” to conduct business stakeholder consultations (a “must” to be considered by the Province to provide matching benefits)
- Province will provide matching reductions on a “case-by-case basis” (evaluation criteria is not available yet)
- The Province requires that submissions be made to the Ministry of Finance by March 31 for the applicable taxation year

Toronto has delineated objectives of its potential subclass program

The City of Toronto, which was an early advocate of the subclass, uses the following program objectives to design the subclass program:

- The need to reduce property taxes for small businesses that have endured increases as a result of the highest and best use assessment approach
- The need to preserve and rebuild Toronto's Main Streets by helping businesses during and after the pandemic
- The need to recognize that small business are located throughout the city, and provide a process to provide broad tax relief to these businesses

As the Region awaited regulations from the Province while establishing the [2021 Property Tax Ratios](#) in March 2021, Council directed that the decision on the small business optional subclass be deferred until 2022. Should Council determine this subclass merits further consideration, staff have developed potential methodologies to define "small business".

There are many methodologies for defining small business in a manner that best fits each municipality's circumstances

The Province gave municipalities the discretion to define "small business" properties in the manner that best fit each municipality's circumstances.

Finance staff have been consulting with Planning and Economic Development as well as the local municipalities on how best to define small business. Both "business based" methods and "property based" methods have been considered to define what is a "small business."

Business Based Methods

Possibilities include basing the definition of a small business around number of employees or amount of revenue. However, accurate information of this nature is not consistently available from any reliable data source. In addition, COVID related business disruptions would cause revenue and employee headcount figures to fluctuate. Furthermore, tying a discount to staffing levels may inadvertently cause a disincentive to hiring additional employees.

Staff also considered an application-based approach, which would allow the Region to more carefully tailor the criteria to target businesses which exhibit the greatest need. However, neither the Region nor local municipalities have adequate staff capacity to manage the administrative burden.

Property Based Methods

Under these methods a business would be defined as a “small business” based on the characteristics of the location it operates in. Potential approaches include utilizing the property assessment value, property code, or if the property is located in an approved “Business Improvement Area.”

While property-based methods are relatively simple to administer and a reasonable way to determine a property tax discount, they may not achieve the goal of assisting small businesses that lease their space as the tax benefit would accrue to the landlord. Although regulations permit municipalities to require landlords to pass the discount onto the tenants, this would require implementing monitoring and compliance procedures. Staff are discussing how this can be accomplished without placing an undue burden on the program administrator.

Also, many multi-national enterprises, such as restaurant chains and banks, operate in smaller locations that would have lower assessed values and therefore would be eligible to receive a discounted tax treatment.

Lastly, unlike application-based discounts that can be more targeted, property-based methods may apply to a broader list of properties and could therefore be more costly.

Creating a small business subclass would shift tax burden to other properties

Tax rates are set at the levels needed to raise the exact amount of revenue specified in the Council approved budget. Therefore, any tax rate reduction to one group of property owners would result in tax increases to other property owners.

The Region currently employs revenue neutral tax ratios when setting its property tax rates. If the Region continues with revenue neutral tax ratios, implementing the new subclass would result in increasing the property tax ratios for the other commercial and industrial properties, which may impact the Region’s competitiveness in those classes.

If Council decides not to utilize revenue neutral tax ratios in the future, implementing the new subclass would result in tax increases to both the larger businesses and residential properties.

Implementing the subclass for the 2022 taxation year may not be feasible

For the Province to consider matching the municipal tax relief to the subclass, municipalities are required to advise the Ministry of Finance by March 31 of the applicable taxation year of its decision to implement the subclass. Municipalities must provide the applicable bylaw, an overview of program requirements, the estimated total relief provided to the small business subclass, and confirmation of stakeholder consultations.

While that seems to provide ample time to conduct the necessary due diligence, including public consultations, and provide a recommendation to Council, it would not allow for the list of

discounted properties to be reflected in the assessment Returned Roll issued by MPAC at year end.

Provincial legislation requires that the tax rates be based on assessment contained in the Returned Roll. If the subclass is implemented after the Returned Roll is issued, the tax rates calculated for all other properties would not be sufficient to raise the funds needed to offset the cost of the discount provided to the small business properties.

To meet this timeline, MPAC indicated a list eligible property would have to be provided to them by the end of October 2021. This may not be feasible if public consultations are to be a meaningful part of the process.

Finance staff from municipalities across the GTHA have discussed the feasibility of developing a common approach to defining small businesses. While each single-tier or upper-tier council would pass its own bylaw to adopt the subclass for its jurisdiction, a common approach may help mitigate the impact of tax policy differences.

Staff will continue to consult with local and other regional municipalities regarding the implementation of a small business subclass and will provide a further report to Council in the Fall.

Jason Li

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