Office of the Commissioner
Finance Department

MEMORANDUM

To: Regional Chair Emmerson and Members of Regional Council

From: Jason Li
Acting Commissioner of Finance and Regional Treasurer

Date: September 30, 2021

Re: Optional Small Business Property Subclass Update

This is to provide an update to the memo Council received on June 24, 2021 regarding the use of a new Optional Small Business Property Subclass (the "Subclass").

The proposed Subclass was announced by the Province to enable relief from the higher property taxes that some small businesses were experiencing due to rising property values. Single and upper tier municipalities were given the discretion whether to adopt the Subclass, as well as the flexibility to define what would constitute a "small business". Municipalities would be allowed to offer a tax discount of up to 35% to defined small businesses that are in the commercial and industrial classes. Parking lots, vacant land and any property classified as "large industrial" would not be eligible.

Since that announcement, staff have been consulting with a wide range of stakeholders including local municipal staff, the GTHA - Sustainable Finance Small Business Subclass Working Group[1], the Business Recovery Support Partnership Group[2], and the Municipal Property Assessment Corporation's ("MPAC") working group. Staff also participated in the roundtable session on this matter that was hosted by the Toronto Region Board of Trade.

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[1] A working group formed under the Ontario Regional and Single Tier Treasurers

[2] A working group consisting of regional and local Economic Development staff, as well as boards of trade and chambers of commerce in York Region

The Subclass was announced in conjunction with COVID-19 related relief programs, however it is not considered to be a pandemic program

The Subclass was initially announced as part of the 2020 Ontario Budget on November 5, 2020, along with a reduction in the Business Education Tax and Property Tax and Utility rebates to those businesses that are located in areas impacted by COVID-related lockdowns. However, based on discussions with both provincial and MPAC staff, it was not intended to be a pandemic relief program but rather a permanent change to the property taxation methodology. Furthermore, benefits from the program would take a long time to be realized.

While the Business Recovery Support Partnership supports relief programs for small businesses, it is concerned that the Subclass may not be the right tool

At the Business Recovery Support Partnership meeting on June 15, 2021, staff consulted with local finance and economic development staff, the local chambers of commerce and boards of trade, and other stakeholders regarding the potential use of the Subclass.

In general, there was support for any program that provided financial relief to businesses. However, concerns were raised about whether the Subclass would be the best tool. A major issue was that small business owners were often not the property owners, so the program would need to consider that factor. Also, it was suggested that the financial savings might be too small to provide a material benefit to a business in distress. Another concern was how the cost of providing the discount would be shared among other businesses and/or residents.

Local finance staff also raised a concern about the potential administrative burden of the program compared to the perceived benefit.

Defining what constitutes a "small business" has been challenging for municipalities

GTHA municipalities have been working together to develop a similar definition of small business as well as the appropriate discount rate.

A small business could be defined by the number of its employees and/or its income level. However, since municipalities do not have this information, it would need to be implemented through an application-based process that could be both administratively burdensome and expensive. Also, using these criteria could result in disincentive to the growth of these businesses.

Municipalities could also choose to define a small business as those located in properties that meet certain MPAC-tracked criteria. While this would significantly reduce the administrative burden of managing the program, it would result in a less precise targeting of the tax relief.

For example, the income level of a busines does not always correlate to its property assessment or its property tax payable. Large profitable businesses and many global enterprises such as restaurant chains, high end retail and banks often operate in small physical locations.

Fairness and equity have also been a concern.

In a large single-tier and two-tier municipalities there can be assortment of communities with divergent economic profiles. Using a common property type definition may be unfair as a small business property in a larger urban area could have the same assessed value as much larger property in outlying areas. Also, there could be a fairness issue for properties which might be just outside the stated criteria.

Ensuring that any relief is passed to business tenants would be challenging

Any property tax discount offered would be realized by the owner of the property unless the lease indicates otherwise. Mandating the discount to be passed on to tenants would be difficult to monitor. This is a major concern since most small businesses lease their locations. For example, a review of the Markham Village Business Improvement Area (BIA) showed that less than 5% of businesses in the BIA owned the property they operate in.

Toronto and Ottawa had unique policy rationale and have committed to implementing a program in 2022

The City of Toronto was an early advocate of the program as small businesses in the City experienced financial pressures due to significant property tax increases resulting from rising property values prior to the COVID-19 pandemic. MPAC values the land portion of properties based on their “highest and best use.” This has resulted in instances of small businesses surrounded by residential high-rises receiving assessments that were disproportionate to their income. Thus far, this has not been a major issue in York Region. In addition, the Region’s low business tax ratios would mitigate any potential impact of rising property values.

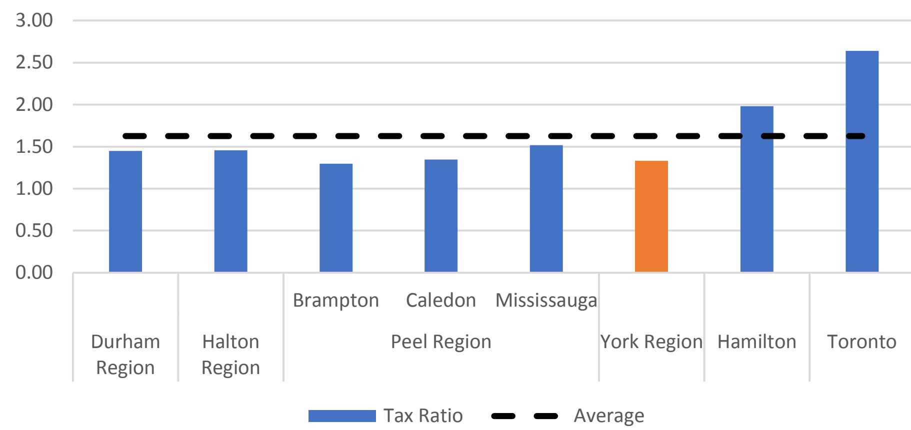
Toronto is currently considering a discount using a combination of Current Value Assessment (CVA), physical size (e.g., lot size or gross floor area) and geography (e.g. Business improvement areas) as criteria. Ottawa is considering a possible 10% discount to properties in certain property codes and size. Both cities are targeting an implementation in 2022.

Funding of the Subclass discount would require shifting of tax burden to either all property taxpayers or other businesses within the class

Funding the discount from the broad property base would shift the tax burden to all taxpayers, with residential property taxpayers sharing most of the cost. Funding the program within the business classes would shift the tax burden to other business properties that are not in the discount program. Note that the Regional portion of any discount being offered would result in tax shifts between municipalities.

Currently, York Region's commercial property tax ratio is among the lowest in the Greater Toronto and Hamilton Area as shown in Chart 1. Implementing the Subclass, while not burdening residents, would require raising the property tax ratio and may affect the Region's business attractiveness in an environment where many other GTHA municipalities have been maintaining or lowering their tax ratios.

Chart 1: 2021 Commercial Property Tax Ratios in GTHA



MPAC's recently released white paper anticipates that most municipalities do not need the Subclass

On September 24, 2021, the Municipal Property Assessment Corporation (MPAC) published a report titled "Ontario's Small Business Property Subclass: Considerations for Municipalities". The report summarizes different policy directions for the proposed subclass and provides guidance on different options for defining and identifying small business properties. According to MPAC, it is anticipated most municipalities will find the subclass not needed since their small businesses are not experiencing property tax issues relative to large commercial and industrial properties.

Further consultations will be needed should Council choose to implement this discount program

Initial feedback from stakeholders has shown only limited interest for the program, as the benefit to small businesses was marginal, especially when compared to the potential administrative burden. Based on selected criteria illustrated in Attachment 1, the discount is estimated to provide less than $150 per month in property tax relief for the average small business property.

If directed to pursue further, staff would need to continue consultations with stakeholders such as local municipalities, business groups, rate payer groups and other members of the business community. Stakeholder consultation is a provincial requirement to be considered for provincial matching funding, which will be assessed on a “case-by-case basis.”

Given the time required to complete consultations and the requirement to submit a list of properties to be included in the subclass to MPAC, the earliest that the Subclass could be implemented would be for the 2023 taxation year.

Jason Li
Acting Commissioner of Finance and Regional Treasurer

Bruce Macgregor
Chief Administrative Officer

October 1, 2021
Attachments (1)
eDOCS# 13179849