

## **NEW OPTIONAL SMALL BUSINESS PROPERTY SUBCLASS**

### **May 2021**

As announced in the *2020 Ontario Budget*, the Province is providing municipalities with the flexibility to target property tax relief to eligible small businesses through the adoption of a new optional small business property subclass. Amendments to O. Reg. 282/98 under the *Assessment Act*, O. Reg. 73/03 under the *Municipal Act, 2001* and O. Reg. 121/07 under the *City of Toronto Act, 2006* were filed on May 7, 2021, which implement the subclass.

This bulletin provides municipalities with an overview of implementation details, including requirements for municipal by-laws, administration of the subclass and provincial matching of municipal property tax reductions with education property tax reductions.

### **IMPLEMENTATION**

#### Municipal By-Law

Municipalities that choose to implement the optional small business property subclass are required to pass a municipal by-law providing the following:

- The decision to adopt the subclass
  - In two-tiered municipalities, the upper-tier municipality must pass a by-law to adopt the subclass.
- The subclass tax reduction to be applied to the commercial and/or industrial class municipal tax rate
  - The reduction can be set up to 35% of the municipal rate for the property class.
- Requirements that the property must meet to be included in the subclass
  - Municipalities have a variety of priorities that may influence the definition of “small business” and, as such, are in the best position to define eligibility criteria that reflect their local priorities and needs.
  - Note that all commercial and industrial properties (except properties that are or would be classified in the large industrial property class or the parking lot and vacant land property class, or vacant or excess land), are eligible to be included in the new small business property subclass.
- Appointment of a Program Administrator to administer the program, including approving properties for inclusion in the subclass, notifying property owners of

decisions and reviewing requests for reconsideration related to a property's eligibility for inclusion in the subclass

- Appointment of an Appellate Authority to hear any appeals of the Program Administrator's eligibility decisions

Municipalities may also choose to require in municipal by-law that landlords pass the tax reduction to tenants as a condition of eligibility in the subclass.

As part of the process of developing a small business property subclass by-law, municipalities are strongly encouraged to consult with their local business stakeholders and other interested parties.

### Program Administration

Municipalities are responsible for establishing detailed eligibility criteria for the optional small business subclass. This would require the municipality to develop and administer a process to identify or approve eligible properties for inclusion in this subclass.

Through the appointment of a Program Administrator, municipal staff would identify qualifying properties classified in the commercial or industrial property classes, or both, that meet the eligibility criteria. This could be done either through an application-based process or through a criteria-based determination process. Properties approved for inclusion in the subclass by the Program Administrator must be listed in a publicly accessible registry (details of the registry requirements are found in the Municipal Checklist below). The Program Administrator would also be required to establish a process where an owner may make a request for reconsideration.

Municipalities can utilize the Ontario Property Tax Analysis (OPTA) system to build scenarios and model tax impacts of adopting the small business subclass.

Municipalities are required to notify the Municipal Property Assessment Corporation (MPAC) of the properties included in the subclass, such that MPAC can classify the property within the small business property subclass for taxation purposes.

Municipalities will also be responsible for monitoring ongoing eligibility, updating the registry of eligible properties and notifying MPAC when properties become eligible or ineligible for the subclass as a result of a municipal determination.

Municipalities are also required to appoint an Appellate Authority to hear appeals about whether or not the property should be included in the subclass.

Appeals of assessed value would continue to be directed to the Assessment Review Board.

## Funding the Subclass

Consistent with other property subclasses, municipalities can fund the small business subclass either by absorbing the cost through a levy decrease or by funding it broadly across all property classes.

Municipalities also have the option of funding the small business subclass within the commercial and/or industrial property class through the adoption of revenue neutral tax ratios, as per section 9 in O. Reg 385/98 under the *Municipal Act, 2001* and section 2.2 in O. Reg. 121/07 under the *City of Toronto Act, 2006*.

The adoption of the subclass, including how the tax reduction is funded, is a municipal decision. As with other tax rate decisions, municipalities are responsible for understanding the potential tax impact on affected taxpayers. Municipalities are strongly encouraged to consult with their local business stakeholders and other interested parties prior to finalizing their decision-making.

## Provincial Matching of Tax Reductions

As announced in the *2020 Budget*, the Province will consider matching municipal property tax reductions with education property tax reductions to provide further support for small businesses. To qualify:

- Municipalities would notify the Minister of Finance of the decision to adopt the subclass and submit a municipal by-law outlining the program requirements as well as estimated total municipal tax relief to small businesses.
- Municipalities would conduct consultations with business stakeholders regarding the small business property subclass.
- The Minister would review each submission and determine whether to match municipal reductions on a case-by-case basis.

Submissions to the Minister of Finance can be sent directly to the Minister, with a copy to [info.propertytax@ontario.ca](mailto:info.propertytax@ontario.ca), prior to **March 31** for the applicable taxation year.

Hon. Peter Bethlenfalvy  
Minister of Finance, and President of the Treasury Board  
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## Regulations

Regulations implementing the small business property subclass are available on the Government of Ontario's e-laws website at [www.ontario.ca/laws](http://www.ontario.ca/laws). These include:

- O. Reg. 282/98 under the *Assessment Act* is amended by O. Reg. 331/21 establishing the optional small business property subclass
- O. Reg. 73/03 under the *Municipal Act, 2001* is amended by O. Reg. 332/21 setting the municipal reduction factor for the optional small business property subclass
- O. Reg. 121/07 under the *City of Toronto Act, 2006* is amended by O. Reg. 333/21 setting the municipal reduction factor for the optional small business property subclass

## **FURTHER INFORMATION**

Municipalities with any questions regarding the optional small business property subclass may contact the Ministry of Finance at [info.propertytax@ontario.ca](mailto:info.propertytax@ontario.ca).

## OPTIONAL SMALL BUSINESS PROPERTY SUBCLASS – MUNICIPAL CHECKLIST

### MAY 2021

#### PROGRAM DETAILS

- ✓ Have you adopted the subclass through municipal by-law?
- ✓ Have you established eligibility criteria for a small business?
- ✓ For municipalities in a two-tiered system, have you discussed proposed changes with lower-tier municipalities?
- ✓ Have you considered how the subclass would be funded?
- ✓ Have you set a discount applicable to the class?
- ✓ Have you consulted with local business stakeholders and other interested parties?

#### IMPLEMENTATION

- ✓ Have you established an application process or established a criteria-based determination process?
- ✓ Have you appointed a Program Administrator?
- ✓ Have you appointed an Appellate Authority?
- ✓ Have you established a publicly accessible registry of eligible properties? The registry may include but is not limited to the following information:
  - Assessment Roll Number
  - Property Address
  - Unit Number (if applicable)
  - Leased Space (if applicable)
- ✓ Have you provided MPAC the list of eligible properties including property details? The list of eligible properties to MPAC would include the following information:
  - Assessment Roll Number
  - Property Address
  - Legal Description
  - Square Footage
  - Floorplan (if applicable)
- ✓ Have you made a submission to the Minister of Finance to request matching the municipal tax reduction with an education tax reduction? Submission would include the following information:
  - By-law adopting the subclass
  - Overview of program requirements
  - Estimated total municipal tax relief to small businesses
  - Confirmation of consultation with the business community

If you have any questions regarding the implementation of the optional small business property subclass, please contact the Ministry of Finance at [info.propertytax@ontario.ca](mailto:info.propertytax@ontario.ca).