

City of North Bay Report to Council

Report No: CORP 2021 – 36

Date: March 6, 2021

Originator: Marc A. Gauthier

Subject: Optional Small Business Property Tax Subclass

Recommendation

For information purposes.

Background

The Municipal Act sets out, in a prescriptive manner, the rules governing property taxation in Ontario. These rules include establishing tax ratios on an annual basis by the municipality. Tax ratios determine the municipal tax burden for the various property classes relative to that of the residential class. The residential class is the “benchmark” class with an established tax ratio of 1.00 and tax ratios for all other property classes are expressed in relation to the residential ratio.

The City of North Bay, as part of its Long Term Tax Policy, has, in the past, lowered both the Commercial and Industrial tax with a goal of bringing them to 1.4% of the residential rate; which would foster and stimulate economic development in the community and facilitate competitiveness.

As part of the 2020 Budget update on November 5th 2020, the Province plans to introduce the ability for municipalities to create a new “Small Business” tax subclass. The budget outlined that:

- The new subclass will be part of the Broad Commercial Tax Class.
- The parameters for determining how a property qualifies for inclusion will be at the discretion of each single tier and upper tier municipality.
- The amount of the reduction and/or minimum/maximum reductions will be set by regulation.

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- The Province has indicated that it may provide matching relief in the form of education tax reduction.
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Financial/Legal Implications

See Options/Analysis for Financial Implications.

Corporate Strategic Plan

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|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

- Ensure the efficient and effective operations of the city, with particular consideration to the impact of decisions on the property tax rate
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Options/Analysis

The analysis below discusses the key deliberations in considering the Optional Small Business Property Tax Subclass announced in the 2020/2021 Ontario Budget.

While the Provincial budget enables property tax relief for small business, the budget doesn't fund the relief. Any reductions to taxes for small businesses would be funded through a redistribution of property taxes onto other classes of property.

The new small business tax subclass is optional and is to be defined locally. The parameters for determining how a property qualifies for inclusion will be at the discretion of each municipality. In addition to considering whether this is an effective and appropriate solution in the short and/or long term, there are a number of implementation matters to take into account.

Implementation opportunities:

- The ability to create the subclass gives municipalities a method to provide targeted relief to small businesses. There is pressure from small business owners to help alleviate some of the financial burden caused by the pandemic.
- The possibility of the Province providing equivalent matching relief by reducing education taxes for the new subclass would result in additional property tax relief for small businesses.

Implementation challenges:

- Eligibility: The provincial government is proposing to allow municipalities to define small business eligibility in a way that best meets local needs and priorities. Business properties exist in both the broad commercial and industrial property classes and a small business subclass could be established in one or both classes. The municipality would need to consider how to define a “small business” in a way that can be captured in the MPAC-managed assessment roll. Although property classification is normally performed by MPAC, in this case municipalities would have to identify the roll numbers to be included in the small business class based on their definition. Municipalities do not have broad experience in determining the eligibility of properties for a particular property class.

A small business can be defined in numerous ways including by number of employees, by property value, by a class of businesses, by businesses within a geographic area (e.g. located in the Downtown Improvement Area), by sales revenue, etc. Other matters such as ownership of property and tenancies, small businesses that are part of a larger assessed parcel will also need to be considered. Much of this information is not included as part of the assessment maintained by MPAC as part of the roll. Processes and roles remain undefined with respect to how MPAC will facilitate the application of each municipality’s unique definition of a small business in order to maintain the assessment roll in a practical manner.

- Tax shifts onto other properties: The annual budget determines the amount of taxes to be levied and a variety of tax policies determines the property tax rates for each property class. Lowering the tax rate for a small business subclass shifts the tax burden onto other classes of property including residential, multi-residential and other commercial/industrial properties.
- Implementation and Incremental costs: There would be incremental costs associated with the implementation of the small business subclass, predominantly for municipalities that perform the tax billing and collection function (e.g. system programming, additional workload). As a municipality’s definition is likely to include information that is not currently part of the assessment roll, an application process and subsequent and constant reviews would be required to determine continued eligibility, all requiring additional municipal resources. Depending on the City of North Bay’s definition and eligible businesses, as well as the coordination with MPAC, it is conceivable that the incremental costs would include an FTE.
- Timing: The release of the regulation has not yet occurred. Therefore, to properly consult and define a “small business” prior to the final Tax Bill date of June 7th 2021 is problematic. Further, implementation in 2021 may result in an in-year budget impact to municipalities, given that the assessment roll for 2021 has been finalized and delivered. More details will be explored further once the regulation has been published.

Implementation objectives:

In considering whether to implement a new subclass for small business a policy perspective needs to be considered. Short and long term objectives would be required to be defined. While some negatively impacted small businesses need immediate help to assist with the impacts of the COVID-19 pandemic, creating a new property subclass takes time to implement. Further, the effects of creating a new property tax subclass will extend beyond the current financial crisis. Temporarily, there appears to be a mismatch between the needs of some businesses and the creation of this new subclass; in other words distributing tax relief in future years related to historical financial difficulties.

A rushed implementation could potentially create inequities and foster animosity between businesses, residents, and municipalities. Properties excluded from the subclass could be the subject of property tax appeals. Both the Province and municipalities should proceed cautiously to ensure both the regulatory framework and subsequent implementation of the subclass support long term strategic objectives.

It is also noted that additional supports for the business community are being provided by the Province, including:

- Recovery of costs for personal protective equipment (PPE) through one-time grants of up to \$1,000;
- Grants to help with fixed costs such as property taxes and energy bills for businesses that were required to shut down or restrict services due to provincial public health measures;
- COVID-19 Energy Assistance Program for Small Business (CEAP-SB) which is an additional \$8M Provincial assistance program for small businesses;
- Ontario Small Business Support Grant which helps small businesses that were required to close or restrict services under the latest Provincial shutdown (December 26th to March 7th) with grants between \$10,000 and \$20,000;
- As part of their 2021 budget, the Province has doubled the Ontario Small Business Support Program to include a second payment of \$10,000 to \$20,000 to eligible applicants, and will also be creating a similar program specifically for tourism and hospitality businesses.

The Province is drafting the necessary regulation:

For the Province, much of the challenge lies in the development of the regulation. While flexibility will be critical to reflect unique local circumstances, it must be balanced with the imperatives of fairness and equity, in addition to the need for administrative safeguards. Factors that will need to be considered in drafting the regulation include:

- Providing municipalities with discretion over eligibility criteria, including the ability to draw on roll-based and non-roll-based variables. This discretion; however, should be guided by the intent of anti-bonusing provisions in section 106 of the

Municipal Act, 2001. The intent of Section 106 is to ensure that fairness and transparency guide the exercise of this discretion and protects the exercise of this discretion by municipalities against undue pressure for special treatment of individual businesses. In the property tax and assessment context, provisions would be necessary to safeguard against the application of special treatment for some properties to the exclusion of other similar properties.

- Providing municipalities with discretion over program administration, including the ability to create an applications-based program similar to current tax incentive programs should they so choose, and to set administrative exclusions that cannot be overridden on appeal.
- Providing municipalities with the authority to compel taxpayers to submit required information as a matter of course in compliance with local policies as related to the parameters of the subclass.

The regulation will need to ensure that the solution matches the problem and that the implementation of the subclass is equitable, effective, and efficient.

Financial Implications:

While the option for a small business class would enable municipal property tax relief, there is no associated funding from the Province. Any small business relief would be funded through a redistribution of property taxes onto other property classes.

Municipalities will need time to understand the costs and benefits of the optional small business property subclass. Part of this cost relates to the ongoing administration of reviewing and maintaining accurate information in order to update and relay assessment roll information. The “small business” tax relief will be triggered in the form of a change in tax classification which is completed by MPAC at the request of the municipality – potentially based on non-assessment data such as revenue, employment etc. MPAC has created a municipal working group to explore these details.

Conclusion / Next Steps:

Should the necessary regulation be published in time with the annual tax policy, staff will present options and a recommendation to Council. However, if the regulation is released after the City approves its tax policy this option may be deferred to 2022. The consequences of delaying the issuance of the final tax bill would result in significant cash flow implications.

Recommendation

For information purposes.

Respectfully submitted,

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Manager of Revenues and Taxation

We concur with the above noted recommendation.

Margaret Karpenko, CPA, CMA
Chief Financial Officer/Treasurer

David Euler, P.Eng., PMP
Chief Administrative Officer

Personnel designated for continuance: Chief Financial Officer