

Municipality of Chatham-Kent

Finance, Budget, Information Technology & Transformation

Financial Services

Information Report

To: Mayor and Members of Council

From: Matt Torrance, MBA, CPA, CGA
Director, Financial Services

Date: February 16, 2021

Subject: Small Business Tax Class

This report is for the information of Council.

Background

The Province of Ontario establishes rules governing property taxation in Ontario through the Municipal Act (2001). One of the key tools in the Act is the ability for municipalities to establish tax ratios for different classes of properties. Tax ratios are used as a tax policy tool by municipalities to weight assessment. The higher the assessment weight the greater the relative tax burden. Throughout the Province, all properties in the Residential class have a weight of 1.0. The other property classes are weighted as a ratio relative to the Residential class. Chatham-Kent's 2020 approved tax ratios are summarized in the table below:

Class	Tax Ratio
Residential	1.0000
Pipelines	1.2742
Farm Land	0.2200
Landfill	7.3740
Multi-Residential	1.9404
Commercial	1.9471
Parking Lots	1.2985
Industrial	2.0350

For over a decade, Chatham-Kent has methodically lowered tax ratios for the commercial and industrial classes to move towards the elimination of capped classes and as an economic development tool.

In the Fall Economic Statement, the Province proposed the idea of an optional small business class for municipalities to consider.

Comments

As part of the 2020-21 Ontario Budget that was delivered on November 5, 2020, the Province has provided municipalities with the ability to establish a new Small Business tax sub-class. Under this change, municipalities can now establish a tax ratio specifically for small businesses. The parameters for determining how a property qualifies for inclusion under this class would be at the discretion of each Single and Upper Tier jurisdiction. The Province has also indicated it may provide matching relief in the form of an education tax reduction but has not provided further details at this time.

Some small businesses have faced considerable challenges during the COVID-19 pandemic. The ability to create a small business tax class gives municipalities the ability to provide targeted relief directly to small businesses.

The implementation of a small business sub-class would come with a number of challenges:

Determining Eligibility

Under the guidance provided to date, the Province has proposed to allow municipalities to define small business eligibility in a manner that best fits their local needs and priorities. Business properties exist in both the broad commercial and industrial property classes and a small business sub-class could be created for one or both classes. Chatham-Kent would have to determine the criteria to define the tax class in a way that can be captured in the assessment roll. The Municipal Property Assessment Corporation (MPAC) manages the assessment roll and under the current process determines the property class of each property at an arm's length relationship to the municipality. In the case of the Small Business tax class, municipalities would provide MPAC with a list of roll numbers that meet their definition for the Small Business class.

A small business could be defined in a number of ways including:

- Number of employees
- Property value
- Class of business (ie restaurants, retail, etc)
- Geographic area (ie BIA areas)
- Sales Revenue

Most of this information is not part of the assessment roll and a process for collecting, managing and auditing this data would need to be established in conjunction with MPAC. Municipalities do not have broad experience in determining the eligibility of properties for a particular property class and may require additional resources to manage this function.

An additional significant issue is that many small businesses rent their location. The property tax system in Canada is based on ownership. There is no legislation in place to require the owner to pass on any savings to the small business.

Revenue Neutral

Municipal Councils approve a budget annually which determines the amount of taxes to be levied on property owners. Once the budget is approved, Council approves a tax policy which determines the tax ratios and ultimately the tax rates for each class. The process of creating a Small Business tax class with a lower tax ratio simply shifts that burden onto other classes of property including residential, farm and other commercial and industrial properties. There is no evidence of a problem that redistributing the financial burden would solve in the long term. This should not be considered a pandemic response.

Implementation Costs

The implementation of a Small Business tax class is likely to incur one time and ongoing costs. Costs could include customizations of existing software as well as costs related to administering application, review and audit processes to determine eligibility under the prescribed criteria on an annual basis.

Timing

Municipalities need to consider short and long-term objectives of creating a small business tax class. While it is recognized that small businesses have been disproportionately impacted by the COVID-19 pandemic, it is unlikely that this class could be implemented before the 2022 taxation year. Ontario municipalities are still waiting for the Province to publish the regulation before any changes can be implemented. Given the time required to implement, the financial benefits to small businesses would likely occur beyond the current financial crisis. Both the Province and municipalities should proceed cautiously to ensure both the regulatory framework and subsequent implementation of the subclass support long term objectives.

The Province currently has a number of programs intended to support businesses through the COVID-19 pandemic including:

- Cost recovery for personal protective equipment through one time grants of up to \$1,000
- Grants to support businesses which were required to shut down or restrict services with respect to fixed costs such as property taxes and utility costs
- \$8 million COVID-19 Energy Assistance Program for Small Business

Once the regulation is published, Financial Services staff will engage with other municipalities and MPAC to determine if the Small Business tax class is appropriate for Chatham-Kent.

Consultation

The Ontario Regional and Single Tier Treasurers (ORSTT) group was consulted in the creation of this report. The ORSTT position paper on this topic is attached as Appendix A. None of the members across the Province are considering the small business subclass for 2021 due to the concerns included in this report.

Financial Implications

There are no financial implications at this time.

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Attachment: Appendix A – ORSTT Position Paper

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Position Paper: Optional Small Business Property Sub-class

Date: February 19, 2021

1. Purpose: To establish a consistent position with respect to the optional property tax subclass for small business in 2021.

2. Key Considerations:

- a) Included in the 2020/21 Ontario Budget (Nov. 5, 2020) is the ability for municipalities to create a new small business tax sub-class. The new subclass will be part of the broad Commercial tax class, and the parameters for determining eligibility 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, and the Province has indicated that it may provide matching relief in the form of education tax reduction.
- b) While the Budget enables property tax relief for small business, the budget does not fund the relief. Any reductions to taxes for small businesses would be funded through a redistribution of property taxes onto other properties.
- c) 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 single tier and upper tier jurisdiction.
- d) Forthcoming provincial regulations are expected to set out:
 - How a reduced tax rate for small business may be funded (i.e., a tax increase spread across all tax classes including residential, or an increase in tax levy on only the commercial class and/or other classes)
 - Limits on the maximum allowable percentage reduction for the small business subclass
 - Restrictions or limitations on eligibility criteria, or requirements for provincial approval of criteria
 - Right of appeal and provisions for appeals

3. Implementation considerations:

- **Eligibility** is to be determined by municipalities
 - 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.

- How to define a “small business” - options include: number of employees, by property value, by a class of businesses, by businesses within a geographic area (e.g. located in a BIA), by sales revenue, and others.
 - Application-based or automatic inclusion if eligibility test is met?
 - How to capture in assessment roll
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- **Tax shifts onto other properties:** Lowering the tax rate for a small business subclass shifts the tax burden onto other properties.

 - **Implementation costs:** There could 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, eligibility testing, administration).

 - **Timing:** Implementation in 2021 is not possible as the necessary regulation has not been filed and there is insufficient time for appropriate consultation and analysis. Once the regulation is released municipalities will need to review, consult locally and model/analyze/assess different implementation options.

 - **Implementation objectives:** Short and long term municipal objectives must be considered. 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. The effects of creating a new property tax subclass will extend beyond the current financial crisis. Temporally, there is a mismatch between the needs of some businesses and the creation of this new subclass. 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.

 - **Supports for the business community** through COVID-19 are being provided by the Province including recovery of costs for 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; and the COVID-19 Energy Assistance Program for Small Business.

4. Financial Implications:

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

5. Conclusion

- Provincial regulations that would allow for the adoption of a small business tax subclass have not yet been enacted, making it impossible to determine financial impacts or possible benefits to businesses in 2021.
- Municipalities are working through their 2021 budget approvals and will be looking to finalize 2021 property tax policies and set 2021 tax rates in the next two months.
- It is estimated that a six month timeline is needed following the passing of the necessary regulations in order to complete the necessary modelling and undertake appropriate consultation with respect to the implementation of the optional small business property subclass.
- Municipalities should not view this as a short-term COVID-19 impact mitigation tool, but rather as a longer term solution that must fit in well with long term municipal strategic plans and objectives, and implement it in such a way that that avoids unintended consequences.

6. Proposed ORSTT position:

ORSTT recommends that municipalities defer implementation of the proposed optional small business property sub-class in 2021; and undertake the necessary policy and financial impact analysis and local consultation following release of the regulations, and consider implementation for the 2022 taxation year.