

Implementing a Small Business Property Tax Subclass

Date: October 12, 2021

To: Executive Committee

From: Chief Financial Officer and Treasurer

Wards: All

SUMMARY

At its February 2, 3 & 5, 2021 meeting, in its consideration of [Item EX20.5: Property Tax Policies for 2021](#) along with a supplementary report entitled [Supplementary Report: Considerations for Implementing a Small Business Subclass](#), Council adopted a series of tax policy recommendations for 2022 and future years.

In its consideration of these items, Council directed the Chief Financial Officer and Treasurer to conduct the analysis, program design and stakeholder consultations for a small business property tax subclass. The recommendations also included that the small business property subclass tax rate be set at a percentage reduction from the commercial general tax rate as soon as possible and no later than 2022.

In response to this direction, a number of City divisions worked collaboratively to design, prepare and deliver a series of online stakeholder consultation sessions, as well as an online survey, that were conducted over the course of June to August 2021. The feedback and information received from the various consultation sessions and online survey inform the conclusions and recommendations in this report.

This report seeks Council approval for the eligibility criteria, program parameters and administrative structure and the proposed financial requirements, including any required by-laws or by-law amendments, to implement the small business property tax subclass for the 2022 taxation year.

RECOMMENDATIONS

The Chief Financial Officer and Treasurer recommends that:

1. City Council adopt the small business property tax subclass for the commercial property tax class (the "Subclass"), approve the Subclass eligibility criteria, the process to approve the inclusion of properties in the Subclass, and the process to address requests for reconsideration, appeals and other provisions related to the implementation and administration of the Subclass, and amend City of Toronto Municipal Code Chapter

767, Taxation, Property Tax, to add the Subclass, all in accordance with Attachment 1 to this report.

2. City Council direct the Chief Financial Officer and Treasurer to include, as part of 2022 recommended Operating Budget and the 2022 recommended tax policies, rates and ratios, effective for the 2022 taxation year, that:

- (1) the residual commercial property tax class and the graduated tax rates for that property tax class be discontinued; and
- (2) a single tax rate be adopted for the commercial property tax class,

3. City Council adopt a tax rate reduction for the Subclass of 15% of the commercial property class tax rate, and direct the Chief Financial Officer and Treasurer to ensure that the recommended tax rate for the commercial property tax class be set so as to fully fund the costs of the tax rate reduction provided to the Subclass.

4. City Council appoint the Director, Revenue Services, to the role of Program Administrator as defined in Ontario Regulation 282/98, (the "Regulation") and delegate to the Director, Revenue Services the authority to exercise the powers of the Program Administrator under the Regulation including the authority to assess and annually designate those properties that meet the eligibility criteria for inclusion in the Subclass, to amend the eligible properties from time to time as properties become ineligible for inclusion in the Subclass due to changes in assessment value, usage, or other changes affecting eligibility, and to hear requests for reconsideration of inclusion or exclusion of properties from the Subclass, all in accordance with the Regulation.

5. City Council appoint the Controller to the role of Appellate Authority as defined in the Regulation, and delegate to the Controller the authority to exercise the powers of the Appellate Authority under the Regulation including the authority to hear appeals of inclusion or exclusion of properties in the Subclass in accordance with the Regulation.

6. City Council authorize the City Solicitor to submit the bills necessary to amend Municipal Code Chapter 767, Taxation, Property Tax, to give effect to these recommendations.

FINANCIAL IMPACT

The implementation of the Subclass, as recommended in this report will be revenue neutral to the City. The recommended 15% tax rate reduction will result in an estimated one-time shift of \$26.87 million in municipal taxes from the Subclass properties to the broader commercial property tax class. The shift will result in an estimated 0.85% increase in municipal taxes for commercial properties not included in the Subclass.

DECISION HISTORY

At its February 2, 3 & 5, 2021 meeting, Council, in considering [Item EX20.5: Property Tax Policies for 2021](#) along with a supplementary report entitled "[Supplementary Report: Considerations for Implementing a Small Business Subclass](#)" directed staff to conduct stakeholder consultations for a prospective Small Business property tax subclass. The stakeholder consultations requested feedback on how the City should structure the small business property tax subclass.

COMMENTS

The Provincial Budget announcement of November 5, 2020 ([Protect, Support and Recover from COVID-19 Act \(Budget Measures\), 2020](#)) identified a proposed new authority for municipalities to adopt a special tax subclass for small business properties, with eligibility criteria to be established by municipal by-law, to allow reduced tax rates to apply to eligible small business properties. The adoption of the Subclass is optional for municipalities.

On May 7, 2021, [Ontario Regulation 331/21](#) (amending Ontario Regulation 282/98) and [Ontario Regulation 333/21](#) (amending Ontario Regulation 121/07) were enacted to establish the optional Subclass and to prescribe the range of tax rate reduction for the Subclass to be a reduction of between 0 to a maximum 35 percent of the Commercial general tax rate.

In response to Council's direction, staff undertook stakeholder consultations to gather important feedback on the criteria used to define the eligibility requirements as well as the options for funding the Subclass.

The options considered in the consultations addressed Council's direction to address highest and best use assessments, preserve and rebuild Toronto's Main Streets and provide broad tax relief for small businesses which are located throughout the City.

Given the restrictions in place due to COVID-19, all consultations were held virtually. In total there were five consultation sessions, consisting of one meeting with experts in the field of assessment and taxation, one meeting with business and professional business associations, and three public consultation sessions. In addition to the public consultations, an online survey was available from August 4, 2021 to August 20, 2021, with a total of 437 people responding. The public consultations and online survey were advertised on the City's website and social media accounts, through a press release, and by email to various contacts throughout the City.

The three online public consultation sessions were open to all interested parties and were held on August 10, 11 and 18, 2021. Responses received during the consultations were from a wide range of stakeholders including representatives and owners of commercial properties, small business owners, business association members, non-profit groups, and residents of the City.

A presentation was provided during the stakeholder consultation sessions, outlining the various criteria that could be used to define the eligibility requirements as well as possible options to fund the Subclass. The presentation at the expert panel and business and professional business associations panel initiated a detailed discussion with the group involved providing their feedback on the options presented to them. During the presentation for the public consultations, the attendees were asked a number of questions to provide their feedback on key issues. Slido™, an interactive tool used to conduct a live poll during a presentation, was utilized during each of the three public consultation sessions to record participants' views. In addition to the questions outlined, the attendees had the ability to pose questions and those questions were addressed during the consultation. Details of the questions posed and answers received using Slido™ can be found in Attachment 3 to this report.

Further detail on stakeholder feedback from the consultations can be found in Attachment 2 to this report.

Stakeholder Feedback from Consultations

The general consensus among those in attendance at the stakeholder consultations and through the online survey was that a small business property subclass is a good first step and an essential measure in protecting and promoting business in the City. Although support was expressed for a subclass targeting small business properties located within the downtown, growth centres or avenues with a maximum lot size as well as a Current Value Assessment (CVA) threshold for small business properties outside of these areas, there will be difficulty capturing all small business properties and it was therefore suggested that the City should consider a hybrid approach, with differing eligibility criteria depending on location.

With respect to funding, business stakeholders felt that the City should continue its long-term strategy of reducing commercial tax ratios to make Toronto's businesses more competitive. There was some support for funding the Subclass from within the commercial tax class, however a majority of business stakeholders feel that funding should be spread across all property tax classes, including residential. Some residential stakeholders supported an increase in the residential tax rate in order to support small businesses in their neighbourhoods.

Online Survey Results

The online survey was available from August 4, 2021 to August 20, 2021, and included 23 questions. The survey was divided into sections, each representing a specific option. 19 of the questions were directed towards representatives, owners and tenants of commercial/industrial/multi-residential/retail properties, small business owners, business association members, and 4 of the questions were directed towards residents of the City. A total of 437 individuals responded to the online survey, of which 364 were completed fully (all questions answered). This represents an 83.3% completion rate.

In terms of the survey respondents, of the 437 who completed question 1: 23.1% identified themselves as an owner; 31.8% as a tenant; 3.7% as representative of an owner, tenant or member of a business association; 1.4% as owner or lessor of a

business located outside of Toronto; and 40.0% residents of Toronto who neither own nor lease property for business purposes.

A detailed copy of the survey questions and results can be found in Attachment 4 to this report.

Policy Objective

At its February 2, 3 & 5, 2021 meeting, Council directed staff to develop a small business property subclass definition that addresses the following issues:

- **Highest and best use assessments** – the Subclass definition should address the need to reduce property taxes for small businesses that have endured increases in property assessments beyond the average for the commercial tax class;
- **Preserving and rebuilding Toronto's Main Streets** – the Subclass definition should support small businesses located on Toronto's main streets, helping them to survive through the pandemic, while also encouraging the rebuilding of main streets post-pandemic; and
- **Broad tax relief for small business** – the Subclass definition should recognize that small businesses are located throughout the City and provide a process to provide broad tax relief to these businesses.

This report recommends the creation of a Subclass that identifies small commercial properties and will provide substantial benefit to approximately 25,000 small business properties across the City.

A small business, for income tax purposes, is identified by the number of employees and revenues of an enterprise. The property tax system, however, assesses taxes against a physical address, based on the Current Value Assessment (CVA) of the property, and therefore property taxes are not based on the characteristics of the businesses who occupy them. The property tax system operates at the property or parcel level, which can comprise multiple uses, tenants and landlord/tenant arrangements. Under a property-based system, a subclass definition for small business cannot target individual business types, nor "traditional" business characteristics or indicators such as income, gross revenues or profitability, or number of employees.

The recommended Subclass definition will provide an enhanced level of support compared to the graduated tax rate system currently in place, and will also allow for a more targeted approach to longstanding challenges, reflecting the diversity and geographic influences of property valuations across the City.

Further, the Subclass will continue to provide a benefit to those properties which previously received a benefit under the current graduated tax rate system and at the same time, additional properties will also qualify. The tax rate reduction provided to eligible Subclass properties will be greater than the benefit experienced by lower valued properties under the graduated tax rate system, and it is also anticipated that the

Province will provide a reduction in the provincial business education tax equivalent to the tax rate reduction provided on the municipal portion of taxes, which will deepen the benefit received by properties designated in the Subclass.

Eligibility Criteria

The Provincial legislation provides broad authority for municipalities to define eligible properties. Municipalities are responsible for identifying and providing to MPAC property rolls for the purposes of administering the system.

This report recommends eligibility criteria based on characteristics of the property that can be determined based on physical characteristics and data included on the property tax roll and other available metrics. Eligibility will be assessed for all properties and will require no action from property owners and tenants.

Which property types will be included?

This report recommends the creation of a Subclass for commercial properties that meet a series of assessment based and physically verifiable criteria.

In order to target the benefit to smaller commercial properties and businesses, a number of commercial property types will not be eligible to be included in the Subclass. The following tax class property types will not be eligible: office building, shopping centres, parking lots and vacant land, and land already classified within the Creative Co-location Facility subclass or Vacant Land subclass, and land for which a demolition permit has been issued, as set out in Attachment 1.

All other fully taxable properties classified within the commercial tax class will be screened for eligibility based on CVA and physical site characteristics as set out in the following section that have been designed to meet Council objectives.

Eligibility Criteria

In order to meet Council's objectives, staff are recommending a hybrid approach to identifying properties eligible for the Subclass with one set of criteria applied City-wide, and another targeted set of criteria applying to specific geographic areas, including downtown, the growth centres and the avenues, as defined in the City's Official Plan (Figure 1). This allows for the diversity of built form and CVA values across the City to be accounted for.

To provide broad relief for small businesses, it is recommended that any fully taxable property in the commercial tax class (excluding property classified within the office building, shopping centre, parking lots and vacant land tax classes, or land already classified within the Creative Co-location Facility subclass or Vacant Land subclass, and land for which a demolition permit has been issued, as set out in Attachment 1), that has a CVA of \$1 million or less, be included in the Subclass. This will ensure that those businesses currently receiving a benefit through graduated taxes will continue to receive

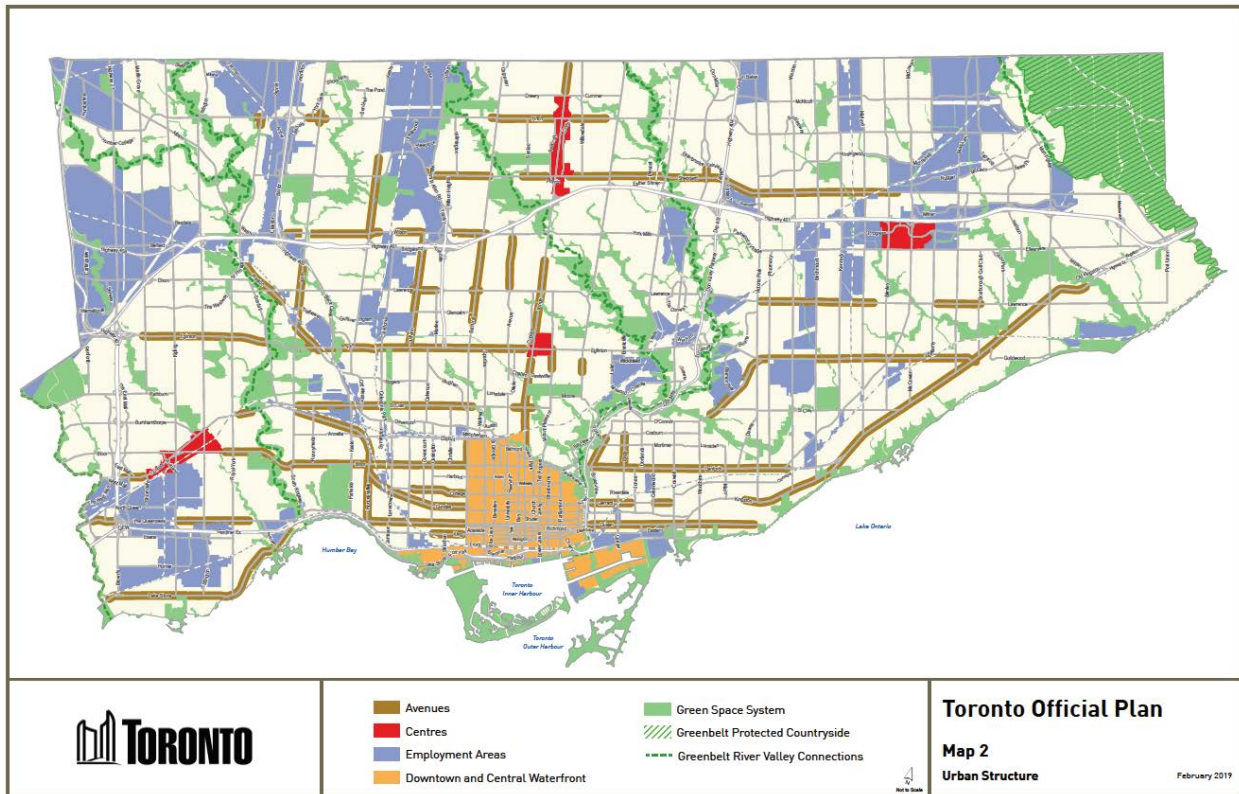
a benefit, and will in fact receive an enhanced benefit, from being included in the Subclass.

At the same time, we know that a number of properties in areas of high development have seen increases to their CVA in recent years. In order to provide relief to these properties, it is recommended that any fully taxable property in the commercial tax class (subject to the same exclusions identified above) that is located within the geographic areas identified in the City of Toronto Official Plan as Downtown and Central Waterfront, Avenues and/or Centres, and that has a CVA of \$7 million or less and a lot size of 7,500 sq. ft. or less be included in the Subclass. The combination of CVA and lot size is intended to strike a balance between allowing for a higher CVA in the downtown and developed areas, and capturing a property built form that reflects a small business. In the case of a commercial condo (a commercial property in a residential tower), a gross floor area (GFA) of 2, 500 sq. ft. will be applied in place of the lot size requirement.

Location criteria applies	Criteria to qualify for the subclass
Anywhere in the City	<ul style="list-style-type: none"> • Property Class CT or XT (Fully taxable Commercial or New Commercial, with exclusions as noted) • CVA less than or equal to \$1 million
In Downtown and Central Waterfront, Growth Centres, and/or Avenues	<ul style="list-style-type: none"> • Property Class CT or XT (Fully taxable Commercial or New Commercial, with exclusions as noted) • CVA less than or equal to \$7 million • Lot size of 7, 500 sq. ft. or less Or • GFA of 2, 500 sq. ft. or less (for commercial condos)

This report recommends eligibility criteria for the first year of implementation. Staff will evaluate the eligibility criteria on an annual basis to ensure the policy objectives of the Subclass are met and to address the evolution of CVAs with reassessment cycles as part of the annual rate setting.

Figure 1: Areas identified in the City of Toronto Official Plan as Downtown and Central Waterfront, Avenues and/or Centres (full version online [here](#))



These thresholds used to determine eligibility have been determined based on the feedback from consultations and analysis by staff. They have been established as follows:

Criteria	Basis
\$1 million CVA threshold City-wide	Feedback during the consultations indicated strong support for a \$1 million CVA threshold outside of downtown. This also ensures properties continue to receive a benefit if they currently do from graduated rates.
\$7 million CVA threshold in areas designated as Downtown and Central Waterfront, Avenue and Centres in the City's Official Plan	Respondents in the consultations indicated support for a higher CVA threshold in Downtown, Growth Centres and on the Avenues. Staff analysis of properties found that \$7 million captures small businesses in those downtown areas such as Yonge and Queen, while balancing the total tax relief burden needing to be funded.

Criteria	Basis
Lot size of 7,500 sq. ft. or less Or Gross Floor Area of 2, 500 sq. ft. or less (for commercial condos)	Respondents in the consultation favoured a lot size threshold of no greater than 10,000 sq. ft. Subsequent staff analysis found that 7,500 sq. ft. strikes a balance to include the diversity of small business built forms in the geographic areas.

Policy Considerations

The recommended eligibility criteria respond to Council's direction.

Council Direction	Proposed Response in Design
Highest and best use assessments – reduce property taxes for small businesses that have seen increase in property assessments beyond the average for the commercial tax class;	<ul style="list-style-type: none"> • Higher CVA limit of \$7 million covering areas with high valuations, such as Downtown and Growth Centres. • Substantial reduction in total property taxes of up to 15%.
Preserving and rebuilding Toronto’s Main Streets – support small businesses on Toronto’s main streets, and help the rebuild of main streets post-pandemic;	<ul style="list-style-type: none"> • Higher CVA limit of \$7 million covering the Avenues and main streets. • Substantial reduction in total property taxes of up to 15%.
Broad tax relief for small business – provide tax relief for small businesses across the City.	<ul style="list-style-type: none"> • \$1 million CVA limit applies City-wide to ensure any property which received benefit under graduated rates continues to see a reduced tax rate. • Properties will see an increased benefit through a reduction of up to 15% in total taxes.

Limitations of the Subclass

A small business property tax subclass, where eligibility is determined strictly on physical or value-related parameters of a property, will inherently have limitations on what types of properties can be included. These limitations are summarized below.

- Any tenant business inside an office building or shopping mall cannot be easily separated on the property tax roll and will not be eligible.
- Some businesses in larger properties, e.g. strip malls, whose combined CVA or lot size will fall outside of the eligibility criteria, will not be eligible.

- Tenants in gross leases may not see the benefit of reduced property taxes passed through, unless the owner agrees to pass the benefit through in the form of a reduction in the gross rent.

The type of business occupying a property cannot be assessed and therefore it is anticipated that corporate franchises, banks and other similar businesses will be located in properties eligible for the Subclass. Respondent feedback, including from the Canadian Property Tax Association, argued in support of including such businesses in the Subclass, maintaining that these businesses face the same risks as non-franchise businesses, and contribute to the vibrancy and diversity of the streetscape and local communities and neighbourhoods.

Funding implications for the Subclass

According to the applicable legislation, municipalities can fund a small business subclass 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 Subclass within the commercial property class, through the adoption of revenue neutral tax ratios.

The City conducted several stakeholder consultations with the business community and the general public that included discussions surrounding the options to fund the Subclass. The business community expressed strong support for funding the Subclass across all classes, which would have the estimated impacts as shown in Table 1 below.

Table 1 – Estimated Percentage Change in Municipal Tax Rates for Options to Fund Small Business Subclass

	Residential Class	Commercial Class	Industrial Class	Multi-Residential Class
Funded across all classes	0.66%	(0.58%)	0.45%	0.66%
Funded within commercial class	0%	0.85%	0%	0%

In order to fund a recommended 15% tax rate reduction for the Subclass, the total estimated cost of this relief would be approximately \$26.9 million in municipal taxes. This amount could be funded by increasing taxes across all classes according to the existing tax ratio proportions, or by increasing taxes within the commercial tax class alone.

Table 1 identifies that, if the tax rate reduction for the Subclass was funded across all property classes, while the residential, industrial and multi-residential tax classes would see an estimated tax rate increase of between 0.45 and 0.66 per cent, the commercial tax class would actually see an estimated tax rate decrease of approximately 0.58 per cent (this is due to the elimination of graduated rates within the commercial tax class).

Considering that the residential tax class would be required to contribute a substantial portion of the funding to enable the Subclass, while the commercial tax class would see

an overall actual reduction in property taxes, and given that these tax increases on the residential tax class would be in addition to any budgetary and/or COVID-19 related pressures in 2022, it was determined that funding small business tax relief across all classes is not a viable option at this point.

Taking into consideration the feedback received during public consultations regarding funding small business relief within the commercial tax class alone, where a majority of participants expressed support for this option as long as the impact is less than a 1% tax rate increase, this report recommends that the tax rate reduction for the Subclass be funded through an estimated one-time shift of \$26.87 million in municipal taxes from the Subclass properties to the broader commercial property tax class, resulting in an estimated 0.85% increase in municipal taxes for commercial properties not included in the Subclass.

Tax Relief

The Regulation stipulates that a municipality determines the tax reduction to be applied to the Subclass. The reduction can be up to 35% of the municipal tax rate for the property class.

Staff have considered different levels of tax relief and their impacts, based on the eligibility criteria for the Subclass recommended in this report and the preliminary modeling shown in Table 2 below.

The maximum tax relief of 35% allowed under Provincial legislation would require an estimated 3.77% increase in municipal taxes for commercial properties not included in the Subclass, which would be in addition to any budgetary levy increases in 2022. This level of increase was considered excessive.

A 15% rate reduction for the Subclass will require approximately 1% increase on the rest of commercial properties. The feedback received during stakeholders consultations suggested that a moderate 15% tax relief for the Subclass, that will double the benefit of the current Band 1 rate and that will result in less than a 1% municipal tax increase (estimated 0.85% increase in municipal and 0.49% increase in total taxes) on the rest of the commercial tax class will be an acceptable and viable option, and is therefore recommended in this report.

Table 2 – Estimated impact of different levels of small business tax relief

Small Business Tax Relief percentage	Revenue Impact, \$ M	Commercial General Municipal Tax Rate Impact	Commercial General Total Impact ¹
15%	\$26.87	0.85%	0.49%
20%	\$36.08	1.57%	0.90%
35%	\$64.51	3.77%	2.17%

Note 1: Includes matching education rate reduction, subject to provincial approval

Tax Impact

If the recommended Subclass is implemented, the current commercial general and commercial residual property tax classes will be combined into one commercial class, and the graduated tax rates previously applied to the commercial residual tax class will be eliminated.

Properties in the current commercial residual tax class with a total property CVA of up to \$1 million that have been taxed at the lower Band 1 tax rate under the current graduated tax rate system will qualify for the Subclass, and will receive further relief in their taxes. Additional commercial properties with CVA between \$1 and \$7 million in the downtown core, civic centres and main streets will also be part of the Subclass and will see tax reductions provided their lot size is less than 7,500 square feet.

A 15% municipal tax rate reduction for the Subclass will result in an estimated City-wide municipal tax relief of about \$26.87 million, to be funded by the rest of the commercial class, as recommended.

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. If implemented, this will result in higher tax savings for properties in the Subclass, as shown in Table 3.

Table 3 – Estimated Tax Impact after implementation of the Subclass

Property Tax Class	Municipal Tax Rate Impact	Total Tax Impact (including Education tax reduction)
Commercial General	0.85%	0.49%
Small Business Subclass	-7.9% to - 13.4%	-9.2% to - 14.7%

Properties that currently receive the benefit of reduced taxes under the current graduated tax rate system will see a reduction from 7% to almost 15% of their total tax bill. Actual impacts will depend on the percentage of a property's assessment that is currently billed at the lower Band 1 rate. The total tax impact for such properties (including the anticipated education tax reduction) will vary between a 9.2% and 14.7% decrease in annual property taxes.

The total estimated tax impact (including education taxes) for commercial properties that are not included in the Subclass will be a total tax increase of approximately 0.49 percent, as shown in Table 3.

Table 4 below provides examples of estimated tax impacts for commercial properties for various CVA levels.

Table 4 – Examples of total estimated tax impact of implementing Subclass

Tax Classification	Current Value Assessment (CVA)	Current Total Taxes	Total Taxes under Small Business subclass	Total Tax Impact, \$	Total Tax Impact, %
Small Business	1,000,000	\$19,536	\$17,734	-\$1,802	-9.2%
Small Business ¹	5,000,000	\$103,481	\$88,670	-\$14,810	-14.31%
Small Business ¹	7,000,000	\$145,453	\$124,138	-\$21,315	-14.65%
Commercial General	5,000,000	\$103,807	\$104,318	+\$511	+0.49%
Commercial General	100,000,000	\$2,076,140	\$2,086,355	+\$10,215	+0.49%

1. Small Business located within the Downtown, Growth Centres or Avenues

Eligibility Determination and Program Administration

Pursuant to the Regulation, the Subclass consists of properties that the Program Administrator has determined meet the eligibility requirements set out in the City's by-law and which therefore have been approved for inclusion in the Subclass for the relevant taxation year.

The Program Administrator is required, annually or more frequently, to provide the Municipal Property Assessment Corporation (MPAC) with a list of the properties, or portions of properties, that are approved for inclusion in the Subclass for a taxation year. This list of properties determined to be eligible to be included in the Subclass must also be made available for public inspection by electronic means.

It is anticipated that the identification of properties eligible for inclusion on the Subclass will be made annually in the last quarter of each calendar year, and provided to MPAC such that the properties may be classified as belonging to the Subclass on the annual assessment roll that is provided to the City in December of each year. Where, during the year, changes have occurred in a property's CVA, tax classification or in some other respect that changes the property's eligibility for inclusion in the Subclass, MPAC will be notified accordingly, with appropriate changes to the publicly available list of Subclass properties. This process will be overseen and administered by staff within Revenue Services Division.

Appointment of a Program Administrator

In terms of the eligibility, approval and appeal processes for the inclusion of properties in the Subclass, the Regulation requires that a "Program Administrator" be appointed by Council. The Program Administrator, as defined in the Regulation, is an employee of the City who is appointed to exercise the powers, duties and functions in connection with the by-law and described below. This report recommends that Council appoint the

Director, Revenue Services Division, to the role of Program Administrator for the Subclass.

The functions of the Program Administrator include administering processes to identify and approve properties eligible to be included in the Subclass; to conduct audits and inspections of properties to verify eligibility requirements, and to hear requests for reconsiderations and to make determinations of eligibility thereunder according to the processes set out in the by-law.

Appointment of an Appellate Authority

The Regulation also identifies the requirement for an "Appellate Authority", and requires that the Appellate Authority similarly be appointed by Council. The Appellate Authority, as defined in the Regulation, is an employee of the City who is appointed to hear appeals to eligibility of properties for inclusion in the Subclass. This report recommends that Council appoint the Controller to the role of Appellate Authority for the Subclass.

Request for Reconsideration and Appeal Processes

The Regulation sets out a two-stage process to review determinations made by the Program Administrator regarding a property's eligibility for inclusion in the Subclass.

A Request for Reconsideration (Step 1) may be made to the Program Administrator by a property owner to determine whether a property is eligible to be included in the Subclass if it was not originally found to be eligible for inclusion. The Request for Reconsideration process mirrors the requirements set out in Section 39.1:

Reconsideration of Assessment of the Assessment Act with respect to process, timing and notification requirements. The difference is that Requests for Reconsideration for the purposes of the Subclass are considered and determined by the City-appointed Program Administrator (Director, Revenue Services), rather than the Municipal Property Assessment Corporation (MPAC), as prescribed under the Assessment Act.

Where, as a result of a Request for Reconsideration, a decision is made that a property should have been included in the Subclass, or that it has ceased to be included, the Program Administrator must notify the Municipal Property Assessment Corporation (MPAC) of the decision such that assessment rolls can be appropriately amended, and the City's public list that identifies properties included in the Subclass and the City's tax rolls shall be amended accordingly.

The second step of the review process involves an Appeal to the City-appointed Appellate Authority. An appeal may be made to the Appellate Authority (Controller) by a property owner (or any other party entitled to make an appeal under section 40 of the Assessment Act) to determine whether a property should be included in the Subclass. The appeal process again mirrors the requirements set out in Section 40: Appeal to Assessment Review Board of the Assessment Act with respect to process, timing and notification requirements. The difference is that appeals for the purposes of the Small Business subclass are considered and determined by the City-appointed Appellate Authority (Controller), rather than the Assessment Review Board (ARB), as prescribed under the Assessment Act.

For appeals, the Regulation requires that the Appellate Authority hold a hearing (either orally or in writing) to make a determination whether the property is eligible for inclusion in the Subclass. Where a decision is made that a property should have been included in the Subclass, or that it has ceased to be included, the Appellate Authority must notify all parties to the appeal and the Program Administrator of the decision, and must provide notification of the decision to MPAC, and the ARB, such that the City's public listing that identifies properties eligible for inclusion in the subclass and the tax rolls shall be amended accordingly.

Right of Audit

At any time after the Program Administrator determines that land should be included in the Subclass, the Program Administrator may conduct an audit to verify that the land continues to meet the requirements set out in the City's by-law. In these cases, an owner must:

(a) allow a person selected by the Program Administrator to inspect the land and to inspect any documents relating to the eligibility of the land in order to verify whether the land continues to meet the requirements set out in the City's by-law; and

(b) submit further information or documents as may be required by the Program Administrator in order to assist in the verification.

Landlord and Tenant Considerations

The provincial Regulation that sets out the requirements for the small business subclass does not provide any mechanisms that require a property owner or landlord to pass on all or any portion of the tax reduction attributable to the property being included in the Subclass. A property owner may voluntarily pass on tax savings to a tenant, in the form of reduced rents, in the situation where the tenant does not pay the property tax directly (e.g., a gross lease arrangement), but this cannot be enforced by the City. As owner/tenant or landlord/tenant arrangements and tenancy agreements vary considerably across the City, and given that the City is not party to these agreements, this report has not included any recommendations nor provisions to enforce a pass-through of any tax decreases to tenants at this time.

Further reports to Council will be prepared as warranted to identify any additional authorities, revisions or adjustments to program eligibility criteria or operational matters following the initial implementation of the Subclass.

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SIGNATURE



Heather Taylor
Chief Financial Officer and Treasurer

ATTACHMENTS

- Attachment 1: Summary of Program Requirements and Eligibility Criteria
- Attachment 2: Summary of Stakeholder Consultations and Online Survey
- Attachment 3: Public Consultations Slido™ Results
- Attachment 4: Online Survey Results