

TORONTO MUNICIPAL CODE
TAXATION, VACANT HOME TAX

Chapter 778

TAXATION, VACANT HOME TAX

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[History: Adopted by the Council of the City of Toronto February 3, 2022 by By-law 97-2022¹. Subsequent amendments noted where applicable.]

General References

City of Toronto Act, 2006 - See S.O. 2006, c. 11, Sched. A.

¹ Editor's Note: By-law 97-2022 came into force on January 1, 2022.

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ARTICLE 1
General

§ 778-1.1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPELLATE AUTHORITY - The City's Controller.

ASSESSMENT - Includes any assessment of Tax under this Chapter, and any notices associated with such assessment, including a Notice of Tax.

CHIEF FINANCIAL OFFICER - At any time, the person appointed as the City Treasurer under section 138 of the City of Toronto Act, 2006.

CVA - The current value assessment of the Residential Unit, as shown on the most recently returned assessment roll as of the Payment Date.

DEEMED VACANT UNIT - Shall have the meaning set out in § 778-4.2.

DIRECTOR - The City's Director, Revenue Services.

DECLARATION - The annual declaration to be made in respect of every Residential Unit by its Owner as required by § 778-4.1 in the form prescribed therefor by the Chief Financial Officer.

DECLARATION DUE DATE - (i) February 28, 2023 for the 2022 Taxation Year, and (ii) for each Taxation Year thereafter, the 2nd day of February of the year following the Taxation Year in respect of which the Declaration is made. **[Amended 2023-02-15 by By-law 171-2023]**

EXEMPTION - Each circumstance for exemption from Tax set out in § 778-3.3.

NOTICE OF TAX - A notice issued to the Owner assessing Tax on a Vacant Unit pursuant to § 778-5.1.

OCCUPANT - Any person occupying a Residential Unit, including without limitation an Owner and a Tenant.

OWNER - The registered legal owner of a Residential Unit.

PAYMENT DATE - The first day of each of May, June and July of each year following the Taxation Year for which Tax is payable, in respect of three equal installment payments of Tax, or such other dates as may be indicated on a notice of Assessment. **[Amended 2023-02-15 by By-law 171-2023]**

PRINCIPAL RESIDENCE - A Residential Unit in which a person is ordinarily resident. A person may only have one Principal Residence but a Residential Unit may be the Principal Residence of more than one person.

PRINCIPAL RESIDENT - A person who occupies a Residential Unit as a Principal Residence.

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RESIDENTIAL PROPERTY - A parcel of property, or a portion thereof, that is classified in the residential property class on the most recently returned assessment roll as of the Payment Date.

RESIDENTIAL UNIT - Residential Property, comprised of one or more Self-Contained Units.

SELF CONTAINED UNIT - A dwelling unit which includes a dedicated washroom and kitchen.

TAX - The tax imposed by this chapter including all penalties and interest that are or may be added to such a tax under this chapter.

TAXATION YEAR - The calendar year to which the Tax applies.

TENANT - A person who occupies a Residential Unit pursuant to a written lease or sublease, respecting possession of the Residential Unit for a consecutive term of at least 30 days.

VACANT UNIT - Shall have the meaning set out in § 778-2.1.

§ 778-1.2. Interpretation bulletins and guidelines.

In administering this chapter, the Chief Financial Officer may issue such interpretation bulletins and guidelines as the Chief Financial Officer, from time to time, determines necessary or advisable.

§ 778-1.3. Forms.

The Chief Financial Officer may approve the use and format of forms for any purpose of this chapter and the forms may provide for such information to be furnished as the Chief Financial Officer may require for the enforcement and proper administration of the Tax.

§ 778-1.4. Delegation to Director of Revenue Services.

All authority of the Chief Financial Officer under this chapter for the administration, collection and enforcement of the Tax is delegated to the Director, including keeping all records in respect of the Tax payable under this chapter.

ARTICLE 2
Vacancy

§ 778-2.1. Vacant Unit.

A Residential Unit is a Vacant Unit if for more than six months during the Taxation Year, no Self-Contained units comprising the Residential Unit are either:

- A. the Principal Residence of the Owner or another Occupant; or
- B. occupied for residential purposes by one or more Tenants in aggregate for at least six months of the year.

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ARTICLE 3
Tax

§ 778-3.1. Amount of Tax.

Every Owner of a Vacant Unit and every Owner of a Deemed Vacant Unit shall pay Tax in the amount of one (1) percent of the CVA for each Taxation Year.

§ 778-3.2. Payment of Tax.

Tax shall be payable on the Payment Date.

§ 778-3.3. Exemptions.

- A. Notwithstanding § 778-3.1, and subject to Subsection B, no Tax is payable by an Owner in respect of a Vacant Unit if any of the following circumstances apply to any of the Self-contained Units comprising the Vacant Unit in the Taxation Year:
- (1) The Owner has died in the Taxation Year or in the previous Taxation Year;
 - (2) The Vacant Unit is undergoing repairs or renovations, and the following conditions have been met:
 - (a) occupation and normal use of the Vacant Unit is prevented by the repairs or renovations for at least six months of the Taxation Year;
 - (b) all requisite permits have been issued for the repairs or renovations; and
 - (c) the City's Chief Building Official is of the opinion that the repairs or renovations are being actively carried out without unnecessary delay;
 - (3) The Principal Resident of the Vacant Unit is residing in a hospital, long term or supportive care facility for a period of an aggregate of at least six months during the Taxation Year;
 - (4) Legal ownership of the Vacant Unit has been transferred to an arm's length transferee in the Taxation Year;
 - (5) The Vacant Unit is required for occupation for employment purposes for an aggregate of at least six months in the Taxation Year, by its Owner who has a Principal Residence outside of the Greater Toronto Area; and
 - (6) A court order is in force which prohibits occupancy of the Vacant Unit for at least six months of the Taxation Year.
- B. If a Residential Unit is a Deemed Vacant Unit, it is taxable under this chapter, notwithstanding that an Exemption applies.

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- C. The Exemption under Subsection A(3) may apply in respect of up to two consecutive Taxation Years.

ARTICLE 4
Declaration and Deemed Vacancy

§ 778-4.1. Owner Declaration.

- A. On or before the Declaration Due Date, every Owner shall make a Declaration to the City for each Residential Unit of which they are an Owner, advising the City, in respect of the prior Taxation Year, whether the Residential Unit was:
- (1) a Vacant Unit; and
 - (2) whether the Vacant Unit was subject to an Exemption.
- B. On or before December 31st of each Taxation Year, the Chief Financial Officer shall cause to be delivered to each Owner by mail or by any other means, or to be made available on-line through a publicly accessible website, a Declaration form and instructions for completion and submission of the completed Declaration either by mail or on-line.

§ 778-4.2. Deemed Vacancy.

A Residential Unit will be a Deemed Vacant Unit:

- A. If an Owner fails to:
- (1) make the Declaration required by § 778-4.1; or
 - (2) to provide information or evidence demanded by the City pursuant to §§ 778-7.2 or 778-9.5; and
- B. The failure is not reversed by way of a Complaint or Appeal under this chapter.

ARTICLE 5
Assessment and Collection

§ 778-5.1. Assessment and Notice of Tax.

Following the Declaration Due Date and prior to March 31st, the Chief Financial Officer shall review each Declaration received pursuant to § 778-4.1, assess the Tax payable in respect of each taxable Vacant Unit and each Deemed Vacant Unit for the previous Taxation year, and issue a Notice of Tax to the Owner setting out the amount of Tax assessed and the Payment Date.

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§ 778-5.2. Supplementary Assessment.

The Chief Financial Officer shall make a further Assessment of Tax payable under this chapter, together with any interest imposed thereon, and shall mail a notice of such Assessment to the Owner, if either:

- A. The Chief Financial Officer determines that a Notice of Tax or other Assessment of Tax should have been issued and was not issued for a Vacant Unit or a Deemed Vacant Unit for one or more of (i) the previous Taxation Year, and (ii) the two most recent previous Taxation Years, or
- B. If an Owner responsible for the payment of Tax under this chapter failed to pay as required.

§ 778-5.3. Limitations on Assessment.

The Chief Financial Officer may assess or reassess any Owner for any Tax payable by the Owner under this chapter within three years from the day the Tax became payable, except that where the Chief Financial Officer establishes that an Owner has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in supplying any information under this chapter, or in omitting to disclose any information, then the Chief Financial Officer may assess or reassess, at any time and for any period that the Chief Financial Officer considers reasonable, the Tax payable by such Owner.

§ 778-5.4. Assessment on inspection.

Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this chapter has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable in such manner and form and by such procedure as the Chief Financial Officer considers adequate and expedient, and the Chief Financial Officer shall assess the amount payable.

§ 778-5.5. Notice of Assessment under §§ 778-5.1, 778-5.2, 778-5.3, and 778-5.4.

The Chief Financial Officer shall send by mail or registered mail or deliver by hand a notice of the Assessment made under §§ 778-5.1, 778-5.2, 778-5.3, or 778-5.4 to the Owner at the Owner's last known address or at the address of the Residential Unit, and the notice shall provide that the amount assessed is payable to the Chief Financial Officer by the Owner so assessed by the Payment Date which date shall be no earlier than 30 days from the date of mailing or delivery of the notice of Assessment.

§ 778-5.6. Liability for tax not affected.

Liability to pay an amount under this chapter is not affected by an incorrect or incomplete Assessment or by the fact that no Assessment has been made.

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§ 778-5.7. Chief Financial Officer not bound by information.

The Chief Financial Officer is not bound by any information delivered by or on behalf of a person responsible for the payment of tax under this chapter and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the Tax payable.

§ 778-5.8. Assessment valid and binding.

An Assessment, subject to being varied or vacated on a complaint or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission in the Assessment or in any proceeding related to it.

§ 778-5.9. Payment notwithstanding appeal.

The amount of any Assessment is payable within the time required by the notice of Assessment regardless of whether a complaint or appeal from the Assessment is made or taken.

ARTICLE 6
Interest and Fees

§ 778-6.1. Interest.

Interest at the rate of 15 percent per annum, calculated at 1.25 percent monthly shall be charged on the amount of any Tax payable or remittable under this chapter on the business day following the Payment Date or any other date on which the tax or its remittance was due and payable, and on the first day of each month thereafter, to and including the date on which such tax is paid or remitted in full.

§ 778-6.2. Insufficient funds fee.

A fee shall be charged in respect of all remittances made by cheque that are not honoured by the financial institution upon which it is drawn in an amount set out in Chapter 441, Fees and Charges.

ARTICLE 7
Audit and Inspection

§ 778-7.1. Document retention.

Every Owner shall retain all records, and documents in respect of the occupation of, and in respect of any applicable Exemption, related to the Residential Unit for a period of no less than three years.

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§ 778-7.2. Demand for information.

The Chief Financial Officer may, for any purpose relating to the administration or enforcement of this chapter, including without limitation for the purpose of verifying the occupancy of a Residential Unit or any Exemption, serve on any Owner and any Occupant personally, by electronic communication, registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of documents, books, letters, accounts, invoices, electronic and such other documents as the Chief Financial Officer or any other person authorized by the City to make the demand considers necessary to determine compliance with this chapter, for a period of up to three years following the relevant Taxation Year, including, without limitation, demands for the following:

- A. Copies, including certified copies, of:
- (1) Ontario vehicle registration and vehicle insurance documentation of any Occupant and Owner;
 - (2) Government-issued personal identification, including without limitation, driver's license, and Ontario Identity Card of any Occupant and Owner;
 - (3) Proof of Ontario Health coverage or valid Health card of any Occupant and Owner;
 - (4) Income tax returns and income tax notices of assessment of any Occupant and Owner;
 - (5) Lease agreements for the Residential Unit;
 - (6) Wills, grants of probate, or grants of administration in respect of an Owner or an Owner's estate;
 - (7) Employment contracts, pay statements or records of employment of any Occupant or Owner;
 - (8) Verification of residence in hospital, long term or supportive care facility in respect of an Owner,
 - (9) Court orders prohibiting the rental of the Residential Unit; and
 - (10) Insurance certificates for homeowners or tenants insurance.
- B. Statutory declarations or affidavits regarding the occupancy of the Residential Unit and any Exemption.

§ 778-7.3. Compliance, demand for information.

A person in receipt of a demand under § 778-7.2 shall comply with the demand within the time period specified in the demand.

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§ 778-7.4. Audit and inspection.

Any person authorized by the City for any purpose related to the administration or enforcement of this chapter may at all reasonable times:

Audit or examine the books and records and any electronic or other document that relates or may relate to the occupancy of a Residential Unit and any Exemption; and

Require an Owner or an Occupant, or an officer, director, agent or representative of that person or any person on the premises:

- (1) To give him or her all reasonable assistance with his or her audit or examination;
- (2) To answer all questions relating to the audit or examination either orally or, if he or she requires, in writing, on oath or by statutory declaration; and
- (3) To attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

§ 778-7.5. Compliance, no interference.

No person shall hinder or molest or interfere with any person doing anything that is authorized by this article to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other by-law of the City to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this article to do.

ARTICLE 8
Refunds

§ 778-8.1. Refunds of Overpayment.

Where an Owner has paid an amount in error that is not payable under this chapter, but such error does not arise from a determination of whether a Residential Unit is a Vacant Unit or a Deemed Vacant Unit under this chapter, the Chief Financial Officer may, upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid, and if such a determination is made, the Chief Financial Officer shall refund or credit all or part of the amount, but no refund shall be made unless an application for such refund is made within 24 months after the Payment Date.

ARTICLE 9
Complaints

§ 778-9.1. Notice of complaint.

An Owner who objects to an Assessment of Tax made under Article 5 on the basis of an error in the imposition of the Tax resulting either from errors or omissions by the Owner in completing the Declaration or by the City in the assessment or calculation of the Tax, may, serve on the

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Chief Financial Officer a notice of complaint in the form approved by the Chief Financial Officer by the following deadlines:

- A. In the case of a Notice of Tax, on or before the 10th business day of April of the year following the Payment Date, however, the time period may be extended to the second business day of July of the year following the Payment Date, except for the 2022 and 2023 Taxation Years where an extension may be granted until December 31st, 2025; and
- B. In the case of a supplementary Assessment, within 90 days of the date of the supplementary Assessment notice, however the time period may be extended by the Director up to one year from the date of issue noted on the supplementary Assessment notice.

§ 778-9.2. Content of notice of complaint.

The notice of complaint shall include the following information:

- A. Identify the Residential Unit in respect of which it is made;
- B. Include the full name of the complainant and a telephone number or email address at which the complainant may be contacted during regular business hours;
- C. Indicate whether the complainant is the Owner or the agent of the Owner, of the Residential Unit to which the complaint relates;
- D. If the complainant is an agent acting on behalf of the Owner, include information regarding the nature of the terms of agency and authority to act on behalf of the Owner;
- E. State the grounds on which the complaint is based;
- F. State why the Residential Unit should not be subject to the Tax based on the grounds of complaint; and
- G. Provide supplementary information and evidence to substantiate the grounds for the complaint.

§ 778-9.3. Computation of time.

For the purpose of calculating the number of days mentioned in § 778-9.1, the day on which a notice of Assessment is mailed, is the date stated in the notice of Assessment.

§ 778-9.4. Service.

A notice of complaint under this section shall be served by being sent by electronic communication, registered mail addressed to the Chief Financial Officer or by such other method of service as the Chief Financial Officer may determine from time to time.

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§ 778-9.5. Reconsideration.

- A. Upon receipt of a notice of complaint, the Chief Financial Officer may require the complainant to provide any of the information or documentation for which a demand can be made under § 778-7.2, and failure to provide the required information within the time period specified in the demand will result in no further action being taken by the Chief Financial Officer to consider the complaint.
- B. Upon receipt of the information required under A, or if no information is required under A, the Chief Financial Officer shall with all due dispatch reconsider the Assessment and vacate, confirm or vary the Assessment and the Chief Financial Officer shall then notify the complainant in writing of the action taken within 30 days of the date the determination is made.

ARTICLE 10
Appeals

§ 778-10.1. General.

After the Chief Financial Officer has given the notification required by § 778-9.5.B, a complainant who has served a notice of complaint under § 778-9.1 may appeal to the Appellate Authority to have the Assessment vacated or varied or reassessed by serving on the Controller an appeal request in accordance with § 778-10.6 within 90 days from the day on which notice was mailed under § 778-9.5.B.

§ 778-10.2. Contents of appeal request.

An appeal request shall include the following information:

- A. Identification of the Residential Unit in respect of which the request is made;
- B. The full name of the requestor and a telephone number or email address at which the requestor may be contacted during regular business hours;
- C. Whether the requestor is the Owner of the Residential Unit to which the request relates, or an agent acting on behalf of the Owner;
- D. If the requestor is an agent acting on behalf of the Owner, include information regarding the nature of their terms of agency and authority to act on behalf of the Owner;
- E. State the grounds on which the appeal request is based;
- F. State why the Residential Unit should not be subject to the Tax based on the grounds of appeal; and
- G. Provide supplementary information and evidence to substantiate the grounds for the appeal.

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§ 778-10.3. Delegation of power to hold hearing.

The power to hold a hearing and make a determination in respect of an appeal under this article is delegated to the Appellate Authority.

§ 778-10.4. Limitation.

A person is entitled to raise by way of appeal only those issues raised by the person in a notice of complaint regarding the Assessment being appealed and in respect of which the person has complied with §§ 778-9.1 and 9.2.

§ 778-10.5. Exception.

Notwithstanding § 778-10.4, a person may raise by way of appeal an issue forming the basis of a fresh reassessment or of a variation of an Assessment under § 778-9.1 if the issue was not part of the Assessment with respect to which the person served the notice of complaint.

§ 778-10.6. Service.

A notice of appeal shall be served on the City by being sent by registered or regular mail addressed to the Controller or by such method of service that the Controller may determine from time to time, in the form prescribed by the Chief Financial Officer.

§ 778-10.7. Consideration of appeal.

The Appellate Authority shall, within 90 days of receiving a request for appeal, hold a hearing either orally or in writing to consider the appeal request providing an opportunity for the requester and the Director to make either written or oral submissions.

§ 778-10.8. Disposition of appeal.

The Appellate Authority may dispose of an appeal by allowing or dismissing it, in whole or in part, and shall direct the Chief Financial Officer to vacate, vary or reconsider the Assessment and reassess within 30 days from the date the determination is made together with reasons for the determination, and the determination on an appeal is final.

§ 778-10.9. Irregularities.

No Assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any provision of this chapter.

ARTICLE 11
Offences and Fines

§ 778-11.1. Offences.

A. Every person is guilty of an offence under this chapter who:

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- (1) Fails to make a Declaration as required under this chapter;
- (2) Makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a Declaration, report, statement, form or other document prepared, submitted or filed under or for the purposes of this chapter;
- (3) Destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment or remittance of tax;
- (4) Makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account;
- (5) Fails to comply with, interferes with, or has contravened Article 7;
- (6) Wilfully, in any manner, evades or attempts to evade:
 - (a) Paying Tax; or
 - (b) Otherwise complying with this chapter; or
- (7) Conspires with any person to commit an offence described in Subsection A(1) through (6).

B. In addition to any penalty otherwise provided by this chapter, every person is liable on conviction of an offence under Subsection A to a fine in the minimum amount of \$250 and not to exceed the maximum amount of \$10,000, for each offence.

§ 778-11.2. Special fines.

Every person who contravenes any of the provisions of this chapter and is found guilty of an offence may be subject to a special fine, imposed in addition to any other fine imposed as a result of a contravention of the chapter, in an amount the court deems appropriate to eliminate or reduce the possible economic advantage that a person may otherwise receive by contravening this chapter.

ARTICLE 12
Recovery of Tax

§ 778-12.1. Adding to the Tax Roll.

Upon default of payment of an amount due under this chapter, the Chief Financial Officer shall add such unpaid amount to the property tax roll for the Residential Unit and the unpaid amount shall be collected in the same manner as property taxes.

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§ 778-12.2. Action to Recover.

Upon default of payment of an amount due under this chapter, the Chief Financial Officer may bring an action for the recovery of the amount in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the City.

§ 778-12.3. Remedies for recovery of Tax.

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this chapter for the recovery and enforcement of the payment of any amount required under this chapter are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this chapter or at law in favour of the City.

§ 778-12.4 Referral to bailiff or collection agency.

The Chief Financial Officer may refer the collection of any Tax payable or required to be remitted to a bailiff or collection agency.