



Français

**ONTARIO REGULATION 331/21**

made under the

**ASSESSMENT ACT**

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**AMENDING O. REG. 282/98**

**(GENERAL)**

**1. Ontario Regulation 282/98 is amended by adding the following Part:**

**PART III.0.2**

**SMALL BUSINESS SUBCLASS**

**APPLICATION AND DEFINITIONS**

**23.0.6** This Part applies with respect to the 2021 and subsequent taxation years.

**23.0.7** In this Part,

“Appellate Authority” means,

- (a) in respect of a single-tier municipality that has passed a by-law described in subsection 23.0.8 (2), the employee of the municipality who is appointed by the municipality to hear appeals under section 23.0.12 in connection with the by-law, or
- (b) in respect of an upper-tier municipality that has passed a by-law described in subsection 23.0.8 (2),
  - (i) the employee of the upper-tier municipality who is appointed by the municipality to hear appeals under section 23.0.12 in connection with that by-law, or
  - (ii) the employee of a lower-tier municipality to which the by-law applies who is appointed by the upper-tier municipality to hear appeals under section 23.0.12 in connection with that by-law; (“autorité d’appel”)

“Program Administrator” means,

- (a) in respect of a single-tier municipality that has passed a by-law described in subsection 23.0.8 (2), the employee of the municipality who is appointed by the municipality to exercise the powers, duties and functions set out in this Part in connection with the by-law, or
- (b) in respect of an upper-tier municipality that has passed a by-law described in subsection 23.0.8 (2),
  - (i) the employee of the upper-tier municipality who is appointed by the municipality to exercise the powers, duties and functions set out in this Part in connection with the by-law, or

- (ii) the employee of a lower-tier municipality to which the by-law applies who is appointed by the upper-tier municipality to exercise the powers, duties and functions set out in this Part in connection with the by-law; (“administrateur du programme”)

### SMALL BUSINESS SUBCLASS

**23.0.8** (1) A small business subclass is prescribed for each of the following classes:

1. The commercial property class.
  2. The industrial property class.
  3. Any optional class that contains property that would otherwise be included in the commercial property class or the industrial property class, other than the parking lots and vacant land property class and the large industrial property class.
- (2) The small business subclass applies for a property class within a single-tier or upper-tier municipality only if the council of the single-tier or upper-tier municipality has passed a by-law that opts to have the subclass apply for that property class.
- (3) A by-law opting to have the subclass apply may specify that the subclass only applies to a portion of the municipality.
- (4) A by-law opting to have the subclass apply may establish different requirements for the subclass in different portions of the municipality.
- (5) The small business subclass consists of land which the Program Administrator has approved for inclusion in the subclass for the relevant taxation year in accordance with section 23.0.9 if the land has not subsequently ceased to be included in the subclass as a result of the application of this Part.
- (6) The Program Administrator shall,
- (a) provide the assessment corporation with a list of the properties, or portions of properties, that are approved for inclusion in the subclass for a taxation year; and
  - (b) make the list available for public inspection by electronic means.

### INCLUSION IN SUBCLASS

**23.0.9** (1) The Program Administrator shall approve land for inclusion in the small business subclass for a taxation year if the Program Administrator determines that the land,

- (a) is used by the owner or a tenant for a small business within the meaning of the by-law described in subsection 23.0.8 (2) that applies in respect of the municipality;
  - (b) would not be in the parking lots and vacant land property class if a by-law referred to in section 13 had been passed opting to have that class apply within the municipality;
  - (c) would not be in the large industrial property class if a by-law referred to in section 14 had been passed opting to have that class apply within the municipality;
  - (d) is not vacant land; and
  - (e) meets any additional eligibility requirements set out for the subclass in the by-law described in subsection 23.0.8 (2) that applies in respect of the municipality.
- (2) At any time after the Program Administrator determines that land should be included in the small business subclass, the Program Administrator may conduct an audit to verify that the land continues to meet the requirements set out in subsection (1) and the 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 subsection (1); and
  - (b) submit further information or documents as may be required by the Program Administrator in order to assist in the verification.
- (3) If the Program Administrator determines that an owner of land included in the small business subclass has not complied with an audit conducted under subsection (2),
- (a) the Program Administrator shall provide the owner of the land and the assessment corporation with notice of the determination; and
  - (b) the land shall cease to be included in the subclass retroactive to the beginning of the taxation year in which the determination was made.
- (4) If the Program Administrator determines that land no longer meets the requirements set out in subsection (1),
- (a) the Program Administrator shall provide the owner of the land and the assessment corporation with notice of the determination; and
  - (b) the land shall cease to be included in the subclass retroactive to the beginning of the taxation year or the date the land stopped meeting the conditions for inclusion in the subclass, whichever is later.

### REQUIREMENT TO SUBMIT APPLICATION

- 23.0.10** (1) This section applies if a by-law opting to have the small business subclass apply in a municipality requires that an application be submitted to the Program Administrator in order for land to be approved for inclusion in the small business subclass for a taxation year.
- (2) A by-law described in subsection (1) may provide that the owner of the land or the treasurer of a municipality may submit an application in respect of land in the municipality.
- (3) The Program Administrator shall, after reviewing the application, approve the land for inclusion in the small business subclass if the Program Administrator determines that the land meets the requirements set out in subsection 23.0.9 (1).
- (4) Despite any application requirement in a by-law described in subsection (1), the Program Administrator may approve land for inclusion in the small business subclass in the absence of an application if,
- (a) the land was approved for inclusion in the subclass for the previous taxation year; and
  - (b) the Program Administrator determines that the land continues to meet the requirements set out in subsection 23.0.9 (1).
- (5) The Program Administrator shall provide notice to the owner of the land of the determination whether or not to approve the land for inclusion in the small business subclass and, if the application to approve the land was submitted by the treasurer of the municipality, to the treasurer.

### REQUESTS FOR RECONSIDERATION

- 23.0.11** (1) A request for reconsideration described in subsection (2) with respect to whether land is included in the small business subclass shall be made according to the procedure set out in this section instead of the procedure set out in section 39.1 of the Act.
- (2) An owner of land may request that the Program Administrator reconsider,
- (a) a determination made under subsection 23.0.9 (1) as to whether the land should be approved for inclusion in the small business subclass;
  - (b) a determination made under subsection 23.0.9 (3) as to whether the owner has complied with an audit; or

- (c) a determination made under subsection 23.0.9 (4) as to whether the land meets the requirements set out in subsection (1) of that section.
- (3) The following deadlines apply with respect to a request for reconsideration:
  - 1. Subject to paragraph 2, for a determination made under subsection 23.0.9 (1), the request must be made within 90 days after the Program Administrator makes the list of properties approved for inclusion in the subclass for the taxation year available for public inspection under subsection 23.0.8 (6).
  - 2. If the municipal by-law requires an application be submitted to the Program Administrator in order for land to be approved for inclusion in the small business subclass for a taxation year, the request must be made within 90 days after the Program Administrator gives notice of the determination under subsection 23.0.10 (5).
  - 3. For a determination under subsection 23.0.9 (3), the request must be made within 90 days after the Program Administrator gives notice of the determination.
  - 4. For a determination made under subsection 23.0.9 (4), the request must be made within 90 days after the Program Administrator gives notice of the determination.
- (4) The request must set out the basis for the owner's request and all relevant facts.
- (5) The Program Administrator shall consider the request and, for this purpose, may request further information from the owner.
- (6) The Program Administrator shall provide the owner with the results of the reconsideration within 90 days after the day the request is made.
- (7) If the Program Administrator determines that land should have been approved for inclusion in the subclass, or that it should not have ceased to be included in the subclass, the Program Administrator shall,
  - (a) give notice of the determination to the clerk of the municipality;
  - (b) update the list described in subsection 23.0.8 (6);
  - (c) provide the updated list to the assessment corporation; and
  - (d) make the updated list available for public inspection by electronic means.
- (8) After receiving notice of the Program Administrator's determination, the clerk of the municipality shall alter the tax roll accordingly and taxes shall be levied in accordance with the amended roll.

## APPEALS

**23.0.12** (1) An appeal with respect to whether land is included in the small business subclass shall be made according to the procedure set out in this section instead of the procedure set out in section 40 of the Act.

- (2) A person who would be entitled to appeal the classification of a property under section 40 of the Act but for the application of subsection (1) may instead appeal the following decisions to the Appellate Authority:
  - 1. A determination of the Program Administrator under subsection 23.0.9 (1) as to whether land should be approved for inclusion in the small business subclass.
  - 2. A determination of the Program Administrator under subsection 23.0.9 (3) as to whether an owner has complied with an audit.
  - 3. A determination of the Program Administrator under subsection 23.0.9 (4) as to whether land meets the requirements set out in subsection (1) of that section.

- (3) Subject to subsection (4), no appeal to the Appellate Authority may be made by a person who is entitled to make a request for reconsideration under section 23.0.11 in respect of the land if the person has not made the request within the time limit set out in subsection (3) of that section.
- (4) If, in the opinion of the Appellate Authority, there are extenuating circumstances explaining why a request for reconsideration in respect of the land was not made within the time limit set out in subsection 23.0.11 (3), the Appellate Authority may, on an application submitted by the person within 180 days after the applicable deadline in that subsection, extend the deadline for making a request under that subsection.
- (5) The deadline for appealing a determination of the Program Administrator to the Appellate Authority is 90 days after the Program Administrator has given notice of the decision to the owner of the land or provided the owner of the land with the results of a reconsideration, whichever is applicable.
- (6) The Appellate Authority shall hold a hearing to determine whether the land should have been approved for inclusion in the subclass or should not have ceased to be included in the subclass.
- (7) The hearing may be held orally or in writing at the discretion of the Appellate Authority.
- (8) The following persons are parties to the appeal:
1. All persons appealing and all persons whose assessment is the subject of the appeal.
  2. The Program Administrator.
- (9) Subsections 40 (2), (3.1), (9), (14), (15), (22) and (28) of the Act apply, with necessary modifications, to an appeal to the Appellate Authority under this section.
- (10) Upon determining the issue, the Appellate Authority shall give the parties, the assessment corporation, the Assessment Review Board and the clerk of the municipality a copy of the decision.
- (11) If the Appellate Authority determines that the land should have been approved for inclusion in the subclass, or that it should not have ceased to be included in the subclass, the Appellate Authority shall direct the Program Administrator to approve the property for inclusion in the subclass.
- (12) After receiving notice of the Appellate Authority's determination,
- (a) the clerk of the municipality shall alter the tax roll accordingly and taxes shall be levied in accordance with the amended roll;
  - (b) the Program Administrator shall,
    - (i) update the list described in subsection 23.0.8 (6),
    - (ii) provide the updated list to the assessment corporation, and
    - (iii) make the updated list available for public inspection by electronic means.
- (13) The Appellate Authority may state a case under section 43 of the Act with respect to the matters set out in subsection (2).

**Commencement**

**3. This Regulation is deemed to have come into force on January 1, 2021.**

Made by:

Pris par :

*Le ministre des Finances,*

PETER BETHLENFALVY

*Minister of Finance*

Date made: May 6, 2021

Pris le : 6 mai 2021

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