



City of Kingston
Report to Administrative Policies Committee
Report Number AP-17-021

To:	Chair and Members of the Administrative Policies Committee
From:	Desirée Kennedy, Chief Financial Officer and City Treasurer
Resource Staff:	Stephen Dickey, Director of Financial Services Jeff Walker, Manager of Taxation and Revenue
Date of Meeting:	November 09, 2017
Subject:	Commercial and Industrial Vacancy Rebate Program

Executive Summary:

Since 1998, the vacant unit rebate and vacant/excess land subclasses have provided tax rebates and reductions to property owners who have vacancies in commercial and industrial buildings or land. From 1998 to 2000 owners made application to the Municipal Property Assessment Corporation (MPAC) to have vacancies reflected in the returned assessment roll. From 2001 onward, the *Municipal Act, 2001* prescribed a vacancy rebate program to be followed by municipalities, utilizing an application process.

Beginning in 2017 and future years, the Province is providing municipalities with more flexibility to tailor the vacancy rebate and reduction programs to reflect community needs and circumstances, while considering the interests of local businesses. This report will:

- Provide Council with background information on the current vacancy rebate program which provides annual property tax rebates to vacant commercial and industrial properties;
- Provide Council with information on policy changes to the vacancy rebate and reduction programs, as per the Province's 2016 Ontario Economic Outlook and Fiscal Review;
- Provide Council with potential options available to tailor the vacancy rebate and reduction programs; and
- Recommend that staff consult with the general public, including the business community as required by the Province, prior to recommending any changes to the vacancy rebate and reduction programs.

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Recommendation:

That Council approve the recommendations outlined in the Administrative Policies Committee Report Number AP-17-021 dated November 09, 2017 as follows:

- a) **That** Council considers the options available in this report.
- b) **That** staff consult with the general public, including the business community, and report back to Council on the final recommendation as a result of these consultations by the second quarter of 2018.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF FINANCIAL OFFICER AND CITY TREASURER

**Desirée Kennedy, Chief Financial Officer and
City Treasurer**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Commissioner, Community Services	Not required
Denis Leger, Commissioner, Corporate & Emergency Services	Not required
Mark Van Buren, Acting Commissioner, Transportation & Infrastructure Services	Not required

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Options/Discussion:**Background**

Historically, prior to 1998, property taxes were separated into two streams: i) real property tax and ii) business occupancy tax.

- i) Real property tax was levied on property and billed to property owners. The municipality was given security in collecting the tax through a special lien on the land and the ability to recover unpaid taxes by selling the land for tax arrears.
- ii) Business occupancy tax was levied on the business occupying the property. The assessment for business occupancy tax was determined according to the *Assessment Act*, which set out the percentage of real property assessed value that a business was liable. On average, commercial business occupancy tax was approximately 30% of the real property tax. Business occupancy tax was unsecured and municipalities hired staff to collect amounts owing through use of collection agencies and bailiffs. As well, many tax adjustments were required to cancel taxes no longer liable when a business vacated the space or a write-off when the business and/or business owner skipped and could not be collected.

As the province moved to disentangle and reduce overlap of services between itself and municipalities, it became apparent that municipal reliance on the property tax would require that the tax be stable and secure. This resulted in significant assessment and taxation reforms, bringing about the abolition of business occupancy tax effective December 31, 1997.

As a result of the abolition of business occupancy tax municipalities were now required to have a Vacancy Rebate Program (the program), as set out under Section 364 of the *Municipal Act, 2001(Act)* together with Ontario Regulation 325/01. The program provides property tax relief through a rebate of property taxes to owners of commercial and industrial buildings. There is no rebate program available to owners of vacant residential or multi-residential properties. The Vacancy Rebate Program is subsidized by all property classes.

Currently, owners of commercial properties may apply for a 30% rebate of the property taxes attributable to vacant space, with industrial properties receiving a 35% rebate. In order to qualify for a rebate there are a number of eligibility requirements that must be met, including:

- the area(s) must be vacant for a minimum of 90 consecutive days;
- the area(s) must be physically separated from the used portions of the building;
- the business must not be seasonal in nature; and
- the area(s) must be capable of being leased for immediate occupation or undergoing renovations.

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The table below indicates the total number of properties with approved applications since 2011 along with the cost to the Municipality. In 2017, approximately 10% of the commercial/industrial properties in Kingston received tax relief under this program.

Municipal Rebates Approved for Taxation Years 2011-2017:

Year	Total Municipal Rebate	Number of Properties
2011	465,814	174
2012	468,294	161
2013	657,819	173
2014	667,394	195
2015	944,444	208
2016	930,603	187
2017 (year to date)	734,911	173

Proposed Changes to Existing Program

In response to municipal and stakeholder requests, the Province has reviewed the vacancy rebate program and is providing municipalities with flexibility for 2017 and future years to make changes to the program. The 2016 Ontario Economic Outlook and Fiscal Review released by the Province announced a legislative framework to facilitate potential program changes. In addition to the vacant units program, the Province is also considering changes to the vacant land subclass tax reductions.

In January 2017, the Ministry of Finance provided a Vacant Rebate and Reduction Programs Bulletin and Checklist which provided background information regarding the new municipal flexibility and a checklist to be followed prior to submitting proposed changes to the Ministry. These documents are attached as Exhibit A. Under these changes, the Province is now providing municipalities broad flexibility to modify the vacancy rebate and reduction programs to meet local circumstances, while considering the impact of such changes on the business community. Details of proposed changes must be submitted to the Province along with a Council resolution to ensure amendments are included in a regulation.

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In June 2017 the Ministry of Finance provided a Vacancy Rebate and Reduction Programs Update which includes examples of program changes that have been presented to the Ministry of Finance for consideration (see Exhibit B).

Several options have been proposed:

1. Adjusting the rebate and/or reduction rates to increase or decrease the value by class to reflect local circumstances.

An example would be to reduce the value of the industrial vacant unit rebate from 35% to 30% to align with the rebate for commercial properties.

2. Applying declining rebate or reduction values for consecutive applications.

An example would be to amend the vacant unit rebate eligibility to limit the eligibility period for properties to three years in a ten-year cycle.

3. Tailoring eligibility requirements to include or exclude specific property uses, property types, and/or a property based on its adherence to local property standards by-laws.

An example would be to include eligibility criteria to exclude vacancies due to labour disruption.

4. Phasing-out or ending the programs, where the rebate or reduction is eliminated in the municipality by a specific year or over a period of years.

An example for a 3 year phase out from a vacancy rebate program may be structured as follows:

- Applications received for the 2017 tax year will be processed as normal with a letter sent to each successful applicant advising them of the phasing out of the program.
- Applications received for the 2018 tax year will be eligible for a rebate of 20%.
- Applications received for the 2019 tax year will be eligible for a rebate of 10%.
- No rebate will be offered for the 2020 tax year and subsequent years.

The examples above are not comprehensive of the possible program changes nor should they be taken as the only changes or consultation plans municipalities are considering. In addition to the above, a municipality may create and submit other alternatives for the Minister's consideration or simply opt for the status quo with no changes to the current program.

Implementation

Municipalities that have decided to modify the vacant unit rebate and the vacant/excess land subclasses must notify the Minister of Finance of their intent to utilize this flexibility and provide details of the proposed changes along with a Council resolution. Changes to the rebate and reduction programs will be implemented through regulation for each municipality. The Province

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has expressed an interest in continuing to ensure tax competitiveness and consistency for taxpayers and as such, the Minister will consider proposed program changes within this context.

Notifications to the Minister of Finance for changes applicable to 2017 were being accepted until August 1, 2017. An email was distributed to the Mayor and Council earlier this year outlining the potential changes to the Vacancy Rebate Program, suggesting a motion as an appropriate way to initiate the review and analysis of any policy changes; however, staff felt the initial timeline was not sufficient to properly engage the business community, review and recommend program changes and provide suitable notice. An update at a recent Ontario Regional and Single Tier Treasurers meeting confirmed that a number of municipalities have not made changes for 2017 and are currently proceeding with a consultation phase at this point in time.

There will be the opportunity to propose changes to the programs for 2018 and future years with applicable deadlines after August 1, 2017. Changes to the 2018 rebate program will affect the applications for the 2018 tax year received by the February 28, 2019 deadline.

To implement changes to the program the Province has outlined specific requirements:

- The local business community must be engaged and the City must communicate potential impacts of proposed changes to the business community.
- Details regarding how the local business community has been engaged must be included in the proposal to the Province.

In order to meet the requirement to engage the local business community, Financial Services staff will work with Communications and Customer Experience to develop a public engagement plan in accordance with the City's Public Engagement Framework. This plan will include various engagement techniques that will ensure a comprehensive consultation process and feedback on proposed options for changing the vacancy rebate and reduction programs.

Council endorsement of this report will provide staff with the direction to engage the general public, including the business community, and to formalize a recommendation for Council to consider in 2018.

Existing Policy/By-Law:

Municipal Act, 2001, S.O. 2001, c. 25, as amended

Notice Provisions:

There are no notice provisions for this report.

Accessibility Considerations:

Exhibits A and B to this report are available in an alternate format upon request.

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Financial Considerations:

No changes to 2017 or 2018 budgets will result from this report. An amount of \$800,000 has been included in the 2017 Operating Budget for the Vacancy Rebate Program, which will be paid in respect of applications received for vacancies occurring primarily in 2016.

Contacts:

Stephen Dickey, Director of Financial Services, Extension 2370

Jeff Walker, Manager Taxation and Revenue, Extension 2484

Other City of Kingston Staff Consulted:

Debbi Miller, Manager, Communications and Public Engagement

Exhibits Attached:

Exhibit A: Ministry of Finance January 2017 Vacant Unit Rebate and Vacant/Excess Land Subclasses notice and checklist

Exhibit B: Ministry of Finance June 2017 Vacancy Rebate and Reduction Programs Update



VACANT UNIT REBATE AND VACANT/EXCESS LAND SUBCLASSES

January 2017

Since 1998, the Vacant Unit Rebate and Vacant/Excess Land Subclasses have provided tax rebates and reductions to property owners who have vacancies in commercial and industrial buildings or land.

- **Vacant Unit Rebates:** The Vacant Unit Rebate provides a tax rebate to property owners who have vacancies in commercial and industrial buildings. This application-based program is administered by municipalities. The current rebate is 30% of the property tax for vacant commercial space and 35% for vacant industrial space.
- **Vacant and Excess Land Property Tax Subclass:** Commercial and industrial properties or portions of these properties in the Vacant and Excess Land Property Tax Subclasses are taxed at a fixed percentage rate below the tax rate of the broad class. These properties are discounted at 30% to 35% of the full Commercial and/or Industrial rate.

Currently, upper- and single-tier municipalities may choose to apply the same percentage of relief (between 30% - 35%) to both the commercial and industrial property classes.

NEW MUNICIPAL FLEXIBILITY FOR 2017 AND FUTURE YEARS

The Province has reviewed the Vacant Unit Rebate and the Vacant/Excess Land Subclasses in consultation with municipal and business stakeholders.

In response to municipal and other stakeholders' requests, the Province is now moving forward with providing municipalities broad flexibility for 2017 and future years. This change, announced in November 2016, is intended to allow municipalities to tailor the vacant rebate and reduction programs to reflect community needs and circumstances, while considering the interests of local businesses.

In order to provide the most flexibility for municipalities, changes to the rebate and reduction programs will be implemented through regulation. Upper- and single-tier municipalities that have decided to change the programs can notify the Minister of their intent to utilize this flexibility and provide details of the proposed changes along with a council resolution.

To support implementation of changes to the vacant rebate and reduction programs, municipalities should review the attached checklist prior to submitting a request for changes to the Minister.

IMPLEMENTATION

Municipalities wishing to utilize the flexibility available to them must submit details of proposed changes to the Minister along with a council resolution by one of the following dates to ensure amendments are included in a regulation as soon as possible.

- March 1, 2017
- April 1, 2017
- July 1, 2017

Municipalities will be notified when the regulation implementing the requested changes has been enacted.

Note that in two-tiered municipalities, any program changes to be implemented will be an upper-tier municipal decision, consistent with the flexibility currently available to upper-tier municipalities, to determine the rebate and reduction percentage between 30% and 35%.

The Province has an interest in continuing to ensure tax competitiveness and consistency for taxpayers and as such, the Minister will consider proposed program changes within this context.

FURTHER INFORMATION

For general information about the vacant rebate and reduction programs, please contact the Ministry of Finance at info.propertytax@ontario.ca.

**VACANCY REBATE AND REDUCTION PROGRAM CHANGES
CHECKLIST
January 2017**

BUSINESS COMMUNITY ENGAGEMENT

- ✓ Have you engaged the local business community?
- ✓ Can you provide details on how and when you have engaged the local business community?
- ✓ Have you considered the potential impacts the proposed changes may have on local businesses?
- ✓ Have you communicated potential impacts of proposed changes to the business community?
- ✓ Has Council been made aware of the potential impacts on the business community?

PROGRAM DETAILS

- ✓ Have you outlined details of program changes in your submission?
- ✓ For municipalities in a two-tiered system, have you discussed proposed changes with lower-tier municipalities?
- ✓ Have you considered how you will implement or administer any potential changes to the vacancy programs?
- ✓ Have you considered these changes as part of a multi-year strategy?
- ✓ Has Council passed a resolution indicating approval of these changes?

FURTHER INFORMATION

If you have any questions about implementation of changes to the vacant rebate and reduction programs, please contact the Ministry of Finance at info.propertytax@ontario.ca.



THE VACANCY REBATE AND REDUCTION PROGRAMS UPDATE

June 2017

Programs Update

As announced in the *2016 Ontario Economic Outlook and Fiscal Review*, municipalities now have broad flexibility to modify the vacant rebate and reduction programs to meet local circumstances, while considering the impact of such changes on the business community. The Province has an interest in continuing to ensure tax competitiveness and consistency for taxpayers and as such, has encouraged municipalities to engage with their local business community when considering program changes.

As the flexibility for the vacancy rebate and reduction programs is new for 2017, municipalities have requested additional information on the program changes being considered and the consultations being conducted in support. In response, the Ministry has completed a scan of municipal council resolutions related to this flexibility.

The Ministry provided municipalities with a bulletin and checklist in January 2017 (for copies, email info.propertytax@ontario.ca), which focus largely on municipal engagement with the business community, to assist municipalities considering changes to the programs. In support of the implementation process, the Ministry also coordinated two joint Municipal and Business Reference Group meetings to facilitate discussions between members of the business community and municipalities on the announced flexibility for the programs.

Examples of Consultations and Program Changes

Consultations

In addition to open council meetings and debates, municipalities have engaged businesses and the public using a variety of approaches, including public meetings/open houses, mail/email solicitation and online surveys. The following provides specific municipal examples.

▪ **Public Meetings/Open Houses**

- Parry Sound: The Town held two open houses for the business community and the general public. The Town also shared the details of their proposed changes to the Downtown Business Association and Chamber of Commerce.
- Peel Region: The Region held meetings with business owners in Caledon, Brampton and Mississauga and posted a questionnaire on the website to solicit feedback.
- Toronto: The City held meetings with representatives from large commercial and industrial property owners, along with representatives from the City's Business Improvement Areas. Public consultation sessions were open to all interested parties and an on-line survey was available through the City's web site.

- **Mail/Email Solicitation**

- Hamilton: Hamilton invited business owners to make written submissions and to appear in person at the General Issue Committee meeting. The municipality also met with the Business Improvement Area associations, the Chamber of Commerce, and circulated an information report to Community Hubs. The City also engaged through their website, as well as traditional and social media.
- Kawartha Lakes: The municipality held two public meetings and sent personalized letters to property owners receiving rebates since 2010. Details of the meetings were sent to community groups, advertised in the media, Facebook and website and included in Council agenda.
- Espanola: The municipality issued a press release to seek feedback on proposed changes to the vacancy rebate and reduction programs. This was in addition to letters mailed to businesses that received the vacancy rebate in 2015, outlining the details of the proposed changes.

- **Online Survey**

- Ottawa: The municipality used a survey tool and conducted public meetings to seek feedback from the retail, industrial community and/or office space property owners. Information was posted on the website and consultations were held with property owners and their representatives who benefited from the vacant unit rebate.
- Sault Ste. Marie: The municipality's engagement process included an online survey, stakeholder meetings with the Chamber of Commerce and Downtown Association, an open house and email correspondence.

Program Changes

Municipalities now have broad flexibility to modify the vacancy rebate and reduction programs to meet local circumstances, while considering the impact of such changes on the business community. The following provides specific municipal examples of proposed program changes.

- **Adjusting the rebate and/or reduction rates to increase or decrease the value by class to reflect local circumstances. For example:**
 - Fort Frances: Council passed a resolution to reduce the value of the industrial vacant unit rebate from 35% to 30% to align with the rebate for commercial properties.
- **Applying declining rebate or reduction values for consecutive applications. For example:**
 - Peel Region: The Region issued a news release that it would be consulting with business owners on proposed changes to the vacant unit rebate program, which include introducing eligibility criteria in 2017 to exclude recipients of the rebate in the last three consecutive years, as well as specific types of taxable non-permanent structures and property types, labour disruptions and fixturing periods. The program is proposed to be eliminated in 2020.

- Sault Ste. Marie: Council passed a resolution to amend the vacant unit rebate eligibility to exclude industrial and shopping centre properties and limit the eligibility period to three years in a ten-year cycle for all other commercial properties.

- **Tailoring eligibility requirements to include or exclude specific property uses, property types, and/or a property based on its adherence to local property standards by-laws. For example:**
 - Kawartha Lakes: For 2017, the municipality proposes to include eligibility criteria to exclude vacancies due to labour disruption, minimum square footage and adherence to property standards. Council passed a resolution to eliminate the vacant unit rebate in 2018.
 - Ottawa: For 2017, the municipality proposes to include eligibility criteria such as minimum square footage, adherence to property standards, excluding vacancies due to labour disruption, and limiting to one application per year. Council passed a resolution to phase-out the vacant unit rebate program over two years, with the rebate percentage reduced to 15% in 2017 and eliminated in 2018.

- **Phasing-out or ending the programs, where the rebate or reduction is eliminated in the municipality by a specific year or over a period of years. For example:**
 - Belleville: Council passed a resolution to eliminate the vacant unit rebate program effective 2018.
 - Charlton and Dack: Council passed a resolution to eliminate the vacant unit rebate for the 2017 tax year.
 - Espanola: Council passed a resolution to reduce the vacant unit rebate percentage for 2017 to 15% for the commercial and industrial classes and eliminate the rebate for 2018 and thereafter. For the vacant and excess land subclasses, the municipality would reduce the discount to 15% for the commercial and industrial classes for 2017 and eliminate the program in 2018 and thereafter.
 - London: Council passed a resolution to phase out the vacant unit rebate program and eliminate the subclass tax reductions on vacant/excess commercial and industrial land in 2018, or phase-out over a two-year period beginning in the year 2018. Final decisions on timing would be determined after consultation with the business community.
 - Oxford County: Through the County's online "town hall" forum, the municipality outlined a proposal to phase out the vacant unit rebate program over a three year period, beginning in 2018. Council will give final consideration to a locally designed vacant rebate policy based on feedback received from the business community
 - Parry Sound: Council passed a resolution to eliminate the rebate program as of January 1, 2017.
 - Peterborough: Council passed a resolution to eliminate the vacant unit rebate for the 2017 tax year.

- St. Marys: Council passed a resolution to reduce the vacant unit rebate to 20% in 2018 and to 10% in 2019 for the commercial and industrial classes and eliminate the rebate in 2020 and thereafter. For the vacant and excess land subclasses, the municipality would reduce the discount to 20% in 2018 and to 10% in 2019 for the commercial and industrial classes and eliminate the discount in 2020 and thereafter.
- Toronto: Council passed a resolution to reduce the vacant unit rebate percentage for commercial properties to 15% for 2017 effective July 1, 2017, and to eliminate the rebate for commercial and industrial properties effective July 1, 2018.

Important Note: The examples above are not comprehensive of the possible program changes or kinds of consultations conducted nor should they be taken as the only changes or consultation plans municipalities are considering. Where there may be differences between the information provided in this update and the local municipal source (i.e. by-law, council resolution), the municipal source should be taken as authoritative. For more information on specific municipal consultations or program changes, please contact the local municipality.

Implementation

Municipalities that have decided to modify the vacant unit rebate and the vacant/excess land subclasses can notify the Minister of their intent to utilize this flexibility and provide details of the proposed changes along with a council resolution. Changes to the rebate and reduction programs will be implemented through regulation for each municipality. However, the Province has an interest in continuing to ensure tax competitiveness and consistency for taxpayers and as such, the Minister will consider proposed program changes within this context.

Notifications to the Minister for changes applicable to 2017 were being accepted until July 1, 2017. However, the Province is **extending the submission deadline to August 1, 2017**.

Please note that changes to the 2017 rebate program affect the applications for the 2017 tax year received by the February 28, 2018 deadline. Municipalities planning to make changes to the programs for future years will have the opportunity to do so after August 1, 2017. Municipalities will be notified when the regulation implementing the requested changes has been enacted.

Please copy info.propertytax@ontario.ca when submitting notifications to the Minister.

Questions?

If you have questions regarding potential program changes and consultations, please contact your local municipality. For questions related to the implementation and regulatory process, email info.propertytax@ontario.ca.