

Municipal Act, 2001
S.O. 2001, CHAPTER 25

Cancellation of taxes, rehabilitation and development period

Definitions

365.1 (1) In this section,

“community improvement plan” and “community improvement project area” have the same meanings as in subsection 28 (1) of the *Planning Act*; (“plan d’améliorations communautaires”, “zone d’améliorations communautaires”)

“development period” means, with respect to an eligible property, the period of time starting on the date the rehabilitation period ends and ending on the earlier of,

- (a) the date specified in the by-law made under subsection (2), or
- (b) the date that the tax assistance provided for the property equals the sum of,
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*; (“période d’aménagement”)

“eligible property” means property for which a phase two environmental site assessment has been conducted,

- (a) that is included under section 28 of the *Planning Act* in a community improvement project area for which a community improvement plan is in effect containing provisions in respect of tax assistance under this section, and
- (b) that, as of the date the phase two environmental site assessment was completed, did not meet the standards that must be met under subparagraph 4 i of subsection 168.4 (1) of the *Environmental Protection Act* to permit a record of site condition to be filed under that subsection in the Environmental Site Registry; (“bien admissible”)

“phase two environmental site assessment” has the same meaning as in Part XV.1 of the *Environmental Protection Act*; (“évaluation environnementale de site de phase II”)

“rehabilitation period” means, with respect to an eligible property, the period of time starting on the date on which the by-law under subsection (2) providing tax assistance for the property is passed and ending on the earliest of,

- (a) the date that is 18 months after the date that the tax assistance begins to be provided,
- (b) the date that a record of site condition for the property is filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
- (c) the date that the tax assistance provided for the property equals the sum of,
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*; (“période de réhabilitation”)

“tax assistance” means, with respect to an eligible property, the cancellation or deferral of taxes pursuant to a by-law passed under subsection (2). (“aide fiscale”) 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (1-3).

By-law to cancel taxes

(2) Subject to subsection (6), a local municipality may pass by-laws providing for the cancellation of all or a portion of the taxes for municipal and school purposes levied on one or more specified eligible properties, on such conditions as the municipality may determine, and a by-law may apply in respect of the rehabilitation period for a specified property, the development period for a specified property, or both. 2005, c. 31, Sched. 17, s. 1 (4).

(3) Repealed: 2005, c. 31, Sched. 17, s. 1 (4).

Payment of tax if conditions not met

(3.1) If a municipality passes a by-law under subsection (2) and the by-law contains conditions which must be met before tax assistance is provided, the by-law may also provide,

- (a) that all or some of the taxes that are the subject of the tax assistance may be levied but not collected during the period before the municipality determines whether the conditions have been met; and
- (b) that the taxes shall become payable only upon notice in writing by the municipality to the owner of the property that the conditions have not been met as required under the by-law. 2004, c. 31, Sched. 26, s. 8 (1); 2005, c. 31, Sched. 17, s. 1 (5).

Same

(3.2) A by-law providing that taxes become payable in the circumstances described in subsection (3.1) may also provide that the interest provisions of a by-law passed under section 345 apply, if the taxes become payable, as if the payment of the taxes had not been deferred. 2004, c. 31, Sched. 26, s. 8 (1).

Notice to upper-tier municipality

(4) If a lower-tier municipality intends to pass a by-law under subsection (2), it shall give a copy of the proposed by-law to the upper-tier municipality. 2005, c. 31, Sched. 17, s. 1 (6).

Cancellation of taxes, upper-tier municipality

(4.1) Upon receiving a copy of the proposed by-law from the lower-tier municipality, the upper-tier municipality may, by resolution, agree that the by-law may also provide for the cancellation of all or a portion of the taxes levied for upper-tier purposes, and the by-law so agreed to by the upper-tier municipality and passed by the lower-tier municipality is binding on the upper-tier municipality. 2005, c. 31, Sched. 17, s. 1 (6).

Same

(4.2) An upper-tier municipality may pass a resolution under subsection (4.1) even if it has no upper-tier community improvement plan that is in effect, and the by-law so agreed to is binding on the upper-tier municipality despite section 106. 2006, c. 23, s. 36 (3).

Notice to Minister of Finance

(5) If a local municipality intends to pass a by-law under subsection (2), it shall give the Minister of Finance the following information:

1. A copy of the proposed by-law.
2. A copy of the resolution, if any, passed by the upper-tier municipality under subsection (4.1).
3. An estimate of how much the tax assistance to be provided under the by-law will cost the local municipality.
4. The tax rates currently applicable to the eligible property and its assessment and property class.
5. The taxes currently levied on the eligible property for municipal purposes and for school purposes.
6. Such other information as may be prescribed by the Minister of Finance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (7-9).

Agreement of Minister of Finance

(6) A by-law under subsection (2) does not apply to taxes for school purposes unless, before the by-law is passed, it is approved in writing by the Minister of Finance

and, in giving approval, the Minister of Finance may require that the by-law contain such conditions or restrictions with respect to taxes for school purposes as he or she considers appropriate. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (10).

Copy of by-law to be given

(7) If a local municipality passes a by-law under subsection (2), it shall, within 30 days, give a copy of the by-law to the Minister and to the Minister of Finance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (11).

Application by owner of an eligible property

(8) The owner of an eligible property may apply to the local municipality to receive tax assistance and shall provide to the municipality such information as the municipality may require. 2002, c. 17, Sched. A, s. 68.

Approval by municipality

(9) Upon approval of an application made under subsection (8), the local municipality shall advise the owner of the eligible property of the commencement date of the tax assistance and provide the owner with an estimate of the maximum amount of the tax assistance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (12).

(10), (11) Repealed: 2005, c. 31, Sched. 17, s. 1 (13).

Tax cancellation for portion of a year

(12) If the tax assistance provided with respect to a property under this section is for a portion of a taxation year, the amount of the tax assistance shall apply only to that portion of the year, and the taxes otherwise payable shall apply to the other portion of the year. 2002, c. 17, Sched. A, s. 68.

Sharing costs, single-tier

(13) If a by-law is passed under subsection (2) by a single-tier municipality, the amount of the tax assistance shall be shared by the municipality and the school boards that share in the revenues from the taxes on the property affected by the by-law in the same proportion that tax assistance is provided under the by-law. 2002, c. 17, Sched. A, s. 68.

Sharing costs, lower-tier

(14) If a by-law is passed under subsection (2) by a lower-tier municipality and the by-law applies to the upper-tier municipality, the amount of the tax assistance shall be shared by the municipalities and the school boards that share in the revenue from the taxes on the property affected by the by-law in the same proportion that tax assistance is provided under the by-law. 2002, c. 17, Sched. A, s. 68.

Where by-law does not apply to upper-tier

(15) If a by-law is passed under subsection (2) by a lower-tier municipality and the by-law does not apply to the upper-tier municipality, the amount of the tax assistance shall be shared by the lower-tier municipality and the school boards that share in the revenue from the taxes on the property affected by the by-law in the same proportion that

the tax assistance is provided under the by-law, but the taxes for upper-tier purposes shall not be affected. 2002, c. 17, Sched. A, s. 68.

Where by-law does not apply to taxes for school purposes

(16) Despite subsections (13), (14) and (15), if a by-law made under subsection (2) does not apply to taxes for school purposes, the amount of the tax assistance does not affect the amount of taxes for school purposes to be paid to the school boards. 2002, c. 17, Sched. A, s. 68.

(17)-(20) Repealed: 2005, c. 31, Sched. 17, s. 1 (14).

Refund or credit

(21) In providing tax assistance for an eligible property, the local municipality may,

- (a) refund the taxes to the extent required to provide the tax assistance, if the taxes have been paid; or
- (b) credit the amount to be refunded to an outstanding tax liability of the owner of the eligible property with respect to the property, if the taxes have not been paid. 2004, c. 31, Sched. 26, s. 8 (2); 2005, c. 31, Sched. 17, s. 1 (15).

Tax roll

(22) The treasurer of the local municipality shall alter the tax roll to reflect the tax assistance provided for an eligible property. 2005, c. 31, Sched. 17, s. 1 (16).

Notice to municipality

(23) If the owner of an eligible property files a record of site condition with respect to the property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, the owner shall, within 30 days, notify the local municipality of the filing and, within 30 days after receiving the notice, the municipality shall advise the Minister of Finance of the filing. 2002, c. 17, Sched. A, s. 68.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (23) is repealed by the Statutes of Ontario, 2007, chapter 7, Schedule 26, section 2 and the following substituted:

Notice to municipality

(23) The owner of an eligible property in respect of which a record of site condition has been filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* shall, within 30 days after the record of site condition is filed, notify the local municipality of the filing and the municipality shall, within 30 days after receiving the notice, advise the Minister of Finance of the filing. 2007, c. 7, Sched. 26, s. 2.

See: 2007, c. 7, Sched. 26, ss. 2, 3 (2).

Effect of repeal or amendment of by-law

(24) The local municipality may repeal or amend a by-law passed under subsection (2) with respect to a particular eligible property, but the repeal or amendment does not extinguish a right to tax assistance under the by-law unless the owner of the property consents in writing to the repeal or amendment. 2005, c. 31, Sched. 17, s. 1 (17).

Application of provisions

(25) Subsections (4), (5), (6) and (7) apply, with necessary modifications, to the amendment of a by-law passed under subsection (2), and subsections (4) and (7) apply, with necessary modifications, to the repeal of a by-law passed under subsection (2). 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (18).

Regulations

(26) The Minister may make regulations governing by-laws under subsection (2). 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (19).

Regulations by Minister of Finance

(27) The Minister of Finance may make regulations prescribing information for the purposes of paragraph 6 of subsection (5). 2005, c. 31, Sched. 17, s. 1 (20).

Application

(28) This section applies to the portion of the taxation year remaining in the taxation year in which this section comes into force and to subsequent taxation years. 2002, c. 17, Sched. A, s. 68.