

The Corporation of the Town of Cochrane

VACANT UNIT REBATE PROGRAM

Purpose

Section 364 of the *Municipal Act, 2001* requires municipalities to provide a tax rebate to property owners experiencing vacancies of a minimum ninety (90) consecutive days. A property owner must apply to the municipality for a tax rebate for any portion of the property that becomes vacant. The rebate is calculated on the proportion of the property's current value assessment attributable to the vacant space.

Applications are accepted by the municipality no more than twice yearly. Interim applications covering the period from January to June must be submitted by July 31st. The last day for submitting final applications is February 28th of the year following the year for which application is being made.

Municipalities are responsible for administering this program. No fee will be levied against the property owner for processing vacancy rebate applications. The cost of the rebate program is shared between the municipality and the school boards.

The vacancy rebates are intended to provide relief where business activity has temporarily and fully ceased in respect of a commercial or industrial property. The operation of a business enterprise does not cease as business levels fluctuate. If the business remains open then there has been no cessation of use.

Property owners for Storage Units / Seasonal Operations / Hotel / Motel operations may have units that are empty, please note the primary commercial activity on the site does not cease or fundamentally change regardless of its operation at maximum occupancy. Empty units simply represent available inventory that can be used to fulfill real or potential client demands.

Eligibility Criteria

The criteria for eligibility for vacant unit rebates are similar for both commercial and industrial classes, although there are some minor differences. Ontario Regulation 325/01 addresses this issue:

Eligible Commercial Property:

- Vacant for at least 90 consecutive days;
- Space must not be used or occupied;
- Space must be physically separated from any used area;
- Must be "rentable" and capable of being leased for immediate occupation;
- Or, is not fit for occupation.

Where the presence of available space is an inherent element of the business model, such as:

- Self-storage facilities that are fully operational, but which have empty units available to new clients, and
- Hotel/motels that are open for business, but for a variety of reasons the demand for rooms do not match the size of the facility, leaving a number of rooms unrented,

The lack of business cessation and the fact that the business model in place does not constitute a true offering of space for lease, as the program requires.

Eligible Industrial Property:

- Vacant for at least 90 consecutive days;
- Space must not be used or occupied;
- Space must be physically delineated from used area.

Calculation

The calculation of the rebate is dependent on determining the current value assessment applicable to the vacant space. This information is obtained from the Municipal Property Assessment Corporation (MPAC).

The rebate amount is:

- 30% of the tax attributable to the vacant space in commercial buildings
- 35% of the tax attributable to the vacant space in industrial buildings

Rebates are pro-rated for the actual number of days of vacancy and the general formula for calculating such a rebate is:

$$\text{Rebate} = (\text{Value of vacant area} / \text{Value of whole property}) \times \text{total adjusted taxes} \times (\# \text{ of vacant days} / 365 \text{ days}) \times 30\% \text{ or } 35\%$$

*total adjusted taxes means the CVA taxes for the property class inclusive of capping or clawback provisions.

Timeline

Timelines for the municipality to process applications is:

- Interim – the later of November 30th or 120 days from the date of receipt of a valid application
- Final – the later of June 30th or 120 days from the date of receipt of a valid application

If the municipality fails to process the rebate within these time frames, interest must be paid to the property owner. Additionally, if the municipality fails to issue a rebate within the prescribed time, the owner has the right to appeal to the Assessment Review Board.

The property owner has the right to appeal the vacancy rebate issued by the municipality to the Assessment Review Board within 120 days of the date the municipality issues the rebate. Should the vacancy rebate be appealed, it is the responsibility of the municipality to defend the rebate calculation.

Assessment Changes

When a property's assessment changes after the vacancy rebate is issued as a result of an ARB or Request for Reconsideration, the vacancy rebate should be recalculated where necessary and the property owner provided an additional refund or issued a bill to recover any excess amount previously rebated.

Penalties

For the purpose of verifying a vacancy rebate application, municipalities have been given similar rights as assessors to request information and obtain access to premises. A fine of \$100 per day may be imposed upon a property owner for failure to comply with a municipality's request for information.