

Application for Rebate of Property Taxes for Vacancies in Commercial and Industrial Buildings

Taxation year for which the application is being made
MUNICIPAL USE ONLY Application #

INSTRUCTIONS

- The **deadline** for submitting applications is **February 28** of the year following the taxation year to which the application relates.
- Deliver this completed application to your local municipal office.
- Any person who knowingly makes a false or deceptive statement in this application is guilty of an offence and, upon conviction, is liable for a fine.
- To be eligible for a rebate, a building or portion of a building must satisfy the conditions described in Category 1 or Category 2 below.

ELIGIBILITY (Please check to confirm eligibility.)

Category 1 - Buildings that are Entirely Vacant

A whole **commercial** or **industrial** building will be eligible for a rebate if:

the entire building was unused for at least 90 consecutive days.

Category 2 - Buildings that are Partially Vacant

A suite or unit within a **commercial** building will be eligible for a rebate if, for at least 90 consecutive days, it was:

- unused; and
- clearly delineated or physically separated from the used portions of the building; and
- either capable of being leased for immediate occupation, or
- undergoing or in need of repairs or renovations that prevented it from being available for lease for immediate occupation, or
- unfit for occupation.

A portion of an **industrial** building will be eligible for a rebate if, for at least 90 consecutive days, it was:

- unused; and
- clearly delineated or physically separated from the used portions of the building.

Exclusions

A building or portion of a building will not be eligible for a rebate if:

- it is used for commercial or industrial activity on a seasonal basis;
- during the period of vacancy it was subject to a lease, the term of which had commenced; or
- during the period of vacancy it was included in a sub-class for vacant land.

Note: For complete information about eligibility and application requirements, refer to section 442.5 of the *Municipal Act* and Ontario Regulation 325/01.

For general information about the rebate program, you may refer to the Ministry of Finance bulletin entitled "Property Tax Rebates for Vacant Commercial and Industrial Buildings." This bulletin is available on the internet at www.gov.on.ca/FIN.

PROPERTY INFORMATION

Address (Number and Street)			Roll Number (See your notice of property assessment or your property tax bill, or contact your local municipality.)		
City/Town/Municipality, etc.	Province	Postal Code			
Owner's Name			Representative's/Agent's Name (if applicable)		
Mailing Address (Number and Street)			Mailing Address (Number and Street)		
City/Town/Municipality, etc.	Province	Postal Code	City/Town/Municipality, etc.	Province	Postal Code
Phone Number ()	Fax Number ()		Phone Number ()	Fax Number ()	

Commercial Industrial	Description of Vacant Area (Include unit/suite number, floor number, building number. Attach sketch if necessary.)	Size of Vacant Area in Sq. Ft.	Period of Vacancy (Must be at least 90 consecutive days.)						MPAC USE ONLY Assessment	MUNICIPAL USE ONLY Amount of Tax Rebate
			FROM day	month	year	TO day	month	year		
<input type="checkbox"/> <input type="checkbox"/>		sq. ft.								
<input type="checkbox"/> <input type="checkbox"/>		sq. ft.								
<input type="checkbox"/> <input type="checkbox"/>		sq. ft.								
<input type="checkbox"/> <input type="checkbox"/>		sq. ft.								
<input type="checkbox"/> <input type="checkbox"/>		sq. ft.								

List continued on Page 2

I certify that the information contained in all pages of this form and attachments is true and correct.

Name of Applicant (print)	Signature	Date	Total from Page 2 GRAND TOTAL
MPAC USE ONLY Name of Assessor (print)	Signature	Date	
MUNICIPAL USE ONLY Name of Municipal Representative (print)	Signature	Date	

The information on this form is collected under the authority of section 442.5 of the *Municipal Act* and Ontario Regulation 325/01 and it will be used only for the purposes of determining eligibility for a property tax rebate and the amount of the rebate in respect of vacant commercial and industrial buildings. Questions about the collection of personal information should be directed to your local municipal office.

APPENDIX A – Application for Rebate of Property Taxes

Additional questions to be answered:

1. Please state the reason for the vacancy (eg. Cessation of operations, termination of lease, etc...)

2. Is the vacancy due to the seasonal nature of the occupying business?

3. If this application is for part of a property, how is the vacant area separated from the area still in use?

4. Is the vacant area normally leased to tenants?

5. Is the vacant area currently leased?

6. Has the area been leased again after the period of vacancy?

7. Is the area leased on short term (daily or monthly basis)?

8. Is the vacant area used by the owner for storage or any other purpose?

9. Is the space currently available for lease (if commercial space only)? How is the availability being advertised? Please provide contact name and number (eg. Real estate broker, if applicable).

10. What event marked the start of the vacancy period? (eg. Renovation/retooling, line shutdown)

11. When or by what event do you expect the vacancy to end? (eg. Completion of renovation/retooling (estimated date), sale of property (2-3 months), upturn of business (time indefinite)

“I HEREBY CONFIRM THAT THE INFORMATION PROVIDED IN THE APPLICATION AND THIS APPENDIX IS TO THE BEST OF MY KNOWLEDGE ACCURATE, TRUTHFUL AND COMPLETE”

SWORN (or AFFIRMED) BEFORE ME AT _____

This _____ day of _____, _____

A Commissioner for Taking of affidavits (or as may be)

Signature of Applicant



Property Tax Rebates for Vacant Commercial and Industrial Buildings

Information Bulletin

Starting in 2001, property tax relief for vacant commercial and industrial buildings will be provided to property owners through rebates that are issued by municipalities. This new rebate program is governed by **section 442.5 of the *Municipal Act* and Ontario Regulation 325/01**.

This bulletin describes the types of properties that are eligible for rebates, the application procedures, the method for calculating rebates, appeal mechanisms, and key deadlines.

PROPERTY THAT IS ELIGIBLE FOR A REBATE

To be eligible for a rebate, a building or portion of a building must satisfy the conditions described below.

Buildings that are Entirely Vacant

A whole **commercial or industrial** building will be eligible for a rebate if the entire building was unused for at least 90 consecutive days.

Buildings that are Partially Vacant

A suite or unit within a **commercial** building will be eligible for a rebate if, for at least 90 consecutive days, it was:

- unused; and
- clearly delineated or physically separated from the used portions of the building; and
- either capable of being leased for immediate occupation, or
- not capable of being leased for immediate occupation because it was undergoing or in need of repairs or renovations or was unfit for occupation.

A portion of an **industrial** building will be eligible for a rebate if, for at least 90 consecutive days, it was:

- unused; and
- clearly delineated or physically separated from the used portions of the building.

Exclusions

Seasonal Property:

Businesses that operate on a seasonal basis are not eligible for a rebate for the seasons they are closed.

Leased Property:

Buildings or portions of buildings that are vacant but are leased to a tenant are not eligible for a rebate.

Vacant Land Sub-Class:

Buildings that are included in a vacant land sub-class (e.g. new buildings that have never been occupied) are not eligible for a rebate.

APPLICATIONS -- CONTENTS AND PROCEDURES

Property owners (or their authorized representatives) must submit an application to their local municipality in order to receive a rebate. Application forms may be obtained from local municipal offices.

Deadline for Submitting Applications

The deadline to submit applications for a tax year is **February 28** of the following year. (For example, for the 2001 tax year, the deadline to submit applications is February 28, 2002.)

However, if a property owner receives a notice of omitted assessment from the Municipal Property Assessment Corporation (MPAC) after a tax year, the deadline to submit an application for a rebate is 90 days after the date of issuance of the notice of omitted assessment.

Number of Applications

Property owners may submit a maximum of **two** applications per property per year. Specifically, they may submit either:

- one application in respect of all vacancies that occurred on a property during the entire tax year; -- or --
- one application in respect of the vacancies that occurred during the first six months of the year and a second application for vacancies that occurred during the last six months of the year.

Contents of Applications

At a minimum, rebate applications must contain the following information:

- name of property owner (and name of owner's representative if the application is made by an authorized agent on behalf of the owner);
- municipal address of property;
- roll number of property;
- dates of vacancy;
- description of vacant portion of property (suite number and floor number or description of location within building); and
- size of vacant area in square feet.

The municipality or MPAC may contact an applicant to request further information to assist in verifying eligibility or identifying the vacant area.

Processing Applications

Applications will be processed through the following steps:

1. Property owner or authorized representative submits an application to the local municipality.
2. Municipality forwards a copy of the application to MPAC.
3. MPAC determines the assessed value that is attributable to the vacant area.
4. MPAC notifies the municipality of the value of the eligible vacant property.
5. Municipality calculates rebate and notifies property owner. Rebates may be issued as a credit against an outstanding tax liability or through direct payment to the property owner.

AMOUNT OF REBATES

Calculation

Rebates will be calculated using the following formula:

$$\frac{\text{value of vacant area (1)}}{\text{assessed value of whole property (2)}} \times \text{taxes levied on whole property for the year (3)} \times \frac{\text{number of days of vacancy (4)}}{\text{total number of days in year (5)}} \times 30\% \text{ or } 35\% \text{ (6)} = \text{Rebate}$$

Notes to Calculation Formula:

1. The assessed value of the vacant area will be determined by MPAC.
2. The assessed value of the whole property does not include portions of the property that are exempt from taxation or portions that are in a sub-class for excess land. In a mixed-use property, the assessed value of the property refers to the value attributable to the portion of the property that is in the same property class as the vacant portion.
3. The taxes on the whole property do not include taxes attributable to portions of a property that are in a sub-class for excess land. In a mixed-use property, the taxes of the whole property refer to the taxes attributable to the portion of the property that is in the same property class as the vacant portion.
4. Number of days of vacancy refers to the number of days that the property met the eligibility criteria within a tax year.
5. Total number of days in year will be 365 except in leap years when it will be 366.
6. The percentage will be 30% for commercial property and 35% for industrial property unless a municipality has passed a by-law to apply a common percentage to commercial and industrial vacancies between 30-35%.

Sample Calculation:

Key Facts - Hypothetical Commercial Property:

1. Value of vacant unit = 80,000
2. Assessment of whole property = 800,000
3. Taxes on whole property for the year = \$40,000
4. Duration of vacancy = 120 days (in a single tax year that is not a leap year).

$$(80,000 / 800,000) * \$40,000 * (120 / 365) * 30\% = \text{Rebate of } \$394.52$$

Recalculation following Change to Assessment or Taxes

After a rebate has been issued, if a property's assessment is subsequently altered through a

Act), or if the taxes of the property are subsequently reduced (under sections 442 or 443 of the *Municipal Act*), the rebate will be recalculated and the municipality will notify the property owner of any consequential tax adjustments.

APPEALS

Property owners who disagree with the amount of the rebate that is calculated by the municipality can appeal to the Assessment Review Board (ARB) within 120 days after receiving notification of the rebate amount from the municipality.

As well, if a municipality fails to process a rebate application within 120 days after the deadline for submitting applications (or within 120 days after the owner has provided all of the information required in support of the application, whichever date is later), the owner may appeal to the ARB to ask the Board to determine the amount of their rebate entitlement.

Appeals to the ARB must be submitted in writing and must be accompanied by the appropriate fee. Details about appeal forms and filing fees can be obtained from the ARB at:

Assessment Review Board
250 Yonge Street, 29th Floor
Toronto, ON M5B 2L7

Phone: 1-800-263-3237 or (416) 314-6900

Fax: (416) 314-3717

Web Site: <http://www.arb.gov.on.ca>

PENALTIES

A person who knowingly makes a false or deceptive statement in an application for a rebate is liable, upon conviction, to a fine of double the amount of the rebate that the person sought to obtain through their false or deceptive statement.

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.

FURTHER INFORMATION

For additional information about the process for submitting rebate applications, timing of payment of rebates, or calculation of rebates, please contact your **local municipal office**.

For general information about this rebate program, you may contact the **Ministry of Finance**.

Phone:

English: 1 800 263-7965

Français: 1 800 668-5821

Teletypewriter (TTY): 1 800 263-7776

Web Site:

English: <http://www.fin.gov.on.ca/en/index.htm>

Français: <http://www.fin.gov.on.ca/fr/index.htm>

<http://www.fin.gov.on.ca/en/bulletins/pt/01ibvacancy.html>

**ONTARIO REGULATION 325/01**

made under the

MUNICIPAL ACT

Made: August 18, 2001

Filed: August 20, 2001

Printed in *The Ontario Gazette*: September 8, 2001**TAX MATTERS — ELIGIBLE PROPERTY UNDER SECTION 442.5 OF THE ACT****Eligible property**

1. (1) A building or structure on property that is classified in one of the commercial classes or industrial classes is prescribed to be an eligible property for the purposes of section 442.5 of the Act for a period of time if,

- (a) the period of time is at least 90 consecutive days; and
- (b) no portion of the building or structure was used at any time in the period of time.

(2) A portion of a building on property that is classified in one of the commercial classes is prescribed to be an eligible property under section 442.5 of the Act for a period of time if the period of time is at least 90 consecutive days and throughout the period of time,

- (a) the portion of the building was not used and was clearly delineated or separated by physical barriers from the portion of the building that was used; and
- (b) the portion of the building,
 - (i) was capable of being leased for immediate occupation,
 - (ii) was capable of being leased but not for immediate occupation because it was in need of or undergoing repairs or renovations or was under construction, or
 - (iii) was unfit for occupation.

(3) A portion of a building on property that is classified in one of the industrial classes is prescribed to be an eligible property under section 442.5 of the Act for a period of time if,

- (a) the period of time is at least 90 consecutive days; and
- (b) throughout the period of time, the portion of the building was not used and was clearly delineated or separated by physical barriers from the portion of the building that was used.

(4) The following rules apply for the purposes of subsections (1), (2) and (3):

1. A reference to a period of at least 90 consecutive days shall be read as a reference to a period of at least 89 consecutive days if the period includes all of February.
2. The following, in the absence of other activity, does not constitute the use of a building or structure or a portion of a building:
 - i. Construction, repairs or renovations of the building, structure or portion of the building.
 - ii. The heating, cooling, lighting or cleaning of the building, structure or portion of the building.
 - iii. The presence of fixtures.

(5) Despite subsections (1), (2) and (3), a building, structure or portion of a building is not prescribed to be an eligible property under section 442.5 of the Act for a period of time if,

- (a) it is used for commercial or industrial activity on a seasonal basis;
- (b) it is leased to a tenant who is in possession of the leasehold interest throughout the period of time; or
- (c) it is included in a subclass for vacant land under subsection 8 (1) of the *Assessment Act* throughout the period of time.

Amount of rebate

2. (1) In this section,

“base property” means, in respect of an eligible property for a taxation year, the real property whose assessment on the roll returned under the *Assessment Act* for taxation in the taxation year includes the eligible property, excluding any portion of the real property,

- (a) that is exempt from taxes for municipal and school purposes for the year,
- (b) that is not included in the same class of real property for the taxation year under the *Assessment Act* as the eligible property, or
- (c) that is included in a subclass for excess land under subsection 8 (1) of the *Assessment Act*.

(2) The amount of taxes for a taxation year in respect of an eligible property to which the percentage specified in paragraph 2 or 3 of subsection 442.5 (2) of the Act or referred to in subsection 442.5 (4) of the Act is to be applied is determined as follows:

1. Take the value of the eligible property for the year as determined by the assessment corporation.
2. Determine the percentage that the value of the eligible property is of the assessed value of the base property for the taxation year.
3. Multiply the percentage determined under paragraph 2 by the taxes for municipal and school purposes for the base property for the taxation year.
4. Determine the percentage that the number of days in the taxation year that the property was an eligible property is of the total number of days in the year.
5. Multiply the percentage determined under paragraph 4 by the product determined under paragraph 3.

(3) The amount of the rebate for the purposes of section 442.5 of the Act in respect of an eligible property is determined by multiplying the amount of taxes determined under subsection (2) in respect of the eligible property for the year by the percentage set out in paragraph 2 or 3 of subsection 442.5 (2) of the Act or referred to in subsection 442.5 (4) of the Act, whichever percentage applies.

(4) If the period of at least 90 consecutive days during which a property or portion of a property was an eligible property commences after October 3 in the prior taxation year, the amount of taxes for the taxation year is determined for the purposes of subsection (2) by adding the following amounts:

1. The amount of taxes that would be determined under subsection (2) for the previous taxation year if the only period in that year during which the property or portion of the property was an eligible property was the period after October 3 during which the building or structure or the portion of the building was an eligible property.
2. The amount of taxes that would be determined under subsection (2) for the taxation year in respect of the period in the year during which the building or structure or the portion of the building was an eligible property.

Application for rebate

3. (1) An interim application and a final application for a rebate under section 442.5 of the Act in respect of a taxation year must contain the following information:

1. The name of the owner of the eligible property and, if applicable, the name of the owner's agent.
2. The address of the real property that includes the eligible property, including the number, street and municipality.
3. The assessment roll number of the real property that includes the eligible property for purposes of assessment under the *Assessment Act*.
4. The dates in the period covered by the interim or final application during which the building or structure or the portion of the building was an eligible property.
5. A description of the eligible property,
 - i. by suite or unit number and floor number, or
 - ii. by a method of describing its location in the building that is sufficient to identify the eligible property if it cannot be described by suite or unit number and floor number.
6. The area of the eligible property in square feet.
7. Any additional documentation the municipality or assessment corporation may request to assist in identifying the eligible property.

(2) The municipality shall forward a copy of each interim and final application to the assessment corporation for determination of the value of the eligible property.

(3) The assessment corporation shall provide the value of the eligible property to the municipality as soon as practicable.

(4) The municipality shall calculate the amount of the rebate payable to the owner as soon

as practicable after receiving the determination of the value of the eligible property from the assessment corporation.

(5) The municipality may calculate the amount of a rebate based on an estimate of the amount of taxes for municipal and school purposes in respect of the eligible property and subsequently adjust the amount of the rebate when the amount of the taxes is finally determined.

Recalculation of rebate

4. (1) The municipality shall recalculate the amount of a rebate in respect of an eligible property if the taxes are reduced under section 442 or 443 of the Act or if the assessment for the property changes as the result of,

- (a) a settlement under section 39.1 of the *Assessment Act*;
- (b) an appeal under section 40 of the *Assessment Act*; or
- (c) an application under section 46 of the *Assessment Act*.

(2) If a municipality pays or credits to an owner a rebate in an amount that is greater than the amount determined under a recalculation under subsection (1), the municipality may recover the excess amount.

(3) If a municipality pays or credit to an owner a rebate in an amount that is less than the amount determined under a recalculation under subsection (1), the municipality shall pay or credit to the owner the additional amount of the rebate as soon as practicable after the recalculation.

Deadline extension

5. For the purposes of paragraph 5 of subsection 442.5 (2) of the Act, if the assessment corporation assesses a property during a taxation year under section 33 of the *Assessment Act* in respect of either of the two preceding taxation years, the deadline for making an application under section 442.5 of the Act for that preceding taxation year is extended to the day that is 90 days after the day the assessment is mailed to the owner under section 35 of that Act.

Interest on rebate, 2001

6. (1) This section applies to rebates under section 442.5 of the Act in respect of the 2001 taxation year.

(2) Interest is not payable on the amount of a rebate under an interim application.

(3) Interest is payable under subsection 442.5 (21) of the Act in respect of a rebate under a final application if,

- (a) the application is received by the municipality on or before February 28, 2002; and
- (b) the municipality fails to pay or credit the owner the amount of the rebate to which the owner is entitled by the later of,
 - (i) June 30, 2002, and
 - (ii) the day that is 120 days after the day the owner provides the information required under subsection 3 (1).

Interest on rebate, 2002 and later years

7. (1) This section applies to rebates under section 442.5 of the Act in respect of 2002 and subsequent taxation years.

- (2) Interest is payable under subsection 442.5 (21) of the Act in respect of a rebate under an interim application for a taxation year if,
- (a) the interim application is received by the municipality by July 31 of the taxation year to which the rebate relates; and
 - (b) the municipality fails to pay or credit the owner the amount of the rebate to which the owner is entitled by the later of,
 - (i) November 30 of the taxation year to which the rebate relates, and
 - (ii) the day that is 120 days after the day the owner provides the information required under subsection 3 (1).
- (3) Interest is payable under subsection 442.5 (21) of the Act in respect of a rebate under a final application for a taxation year if,
- (a) the final application is received by the municipality by the last day of February of the year immediately following the taxation year to which the rebate relates; and
 - (b) the municipality fails to pay or credit the owner the amount of the rebate to which the owner is entitled by the later of,
 - (i) June 30 of the year immediately following the taxation year to which the rebate relates, and
 - (ii) the day that is 120 days after the day the owner provides the information required under subsection 3 (1).

Interest, special cases

8. (1) If the deadline for applying for a rebate in respect of a taxation year is extended under section 5, interest is payable under subsection 442.5 (21) of the Act in respect of the rebate if,
- (a) an application for the rebate is received by the municipality before the deadline; and
 - (b) the municipality fails to pay or credit the owner the amount of the rebate to which the owner is entitled by the later of,
 - (i) the day that is 120 days after the deadline, and
 - (ii) the day that is 120 days after the day the owner provides the information required under subsection 3 (1).

(2) If a municipality pays or credits an owner a rebate in an amount that was less than the amount determined under the recalculation under subsection 4 (1), interest is payable under subsection 442.5 (21) of the Act on the additional amount of the rebate if the municipality does not pay or credit the owner the additional amount within 120 days after receiving notice of the change to the assessment.

Complaint to Board

9. The later date prescribed for the purposes of subsection 442.5 (16) of the Act is the later of,
- (a) the day that is 120 days after the municipality receives the application; and
 - (b) the day that interest becomes payable on the outstanding rebate.