
HALDIMAND COUNTY

Report CS-FI-11-2018 Tax Arrears Analysis and Impacts of Tax Registration Process



For Consideration by Council in Committee on June 5, 2018

OBJECTIVE:

To update Council with respect to the County's current property tax sale process for eligible properties and provide details of accounts currently in arrears.

RECOMMENDATIONS:

1. THAT Report CS-FI-11-2018 Tax Arrears Analysis and Impacts of Tax Registration Process be received;
2. AND THAT CS-FI-M02-2018 Confidential Addendum to Report CS-FI-11-2018 be received as information and remain confidential;
3. AND THAT staff be directed to proceed with the recommended actions with respect to property tax collection for the three properties identified in CS-FI-M02-2018, Confidential Addendum to Report CS-FI-11-2018, due to the reasons noted;
4. AND THAT, for the reasons outlined in Report CS-FI-11-2018 and CS-FI-M02-2018 Confidential Addendum to Report CS-FI-11-2018, the outstanding taxes for the property with a previously failed tax sale be reduced to \$500 for the sole purpose of achieving a compliant bid that meets or exceeds this revised cancellation price during a future public tax sale process.

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Approved: Donald G. Boyle, Chief Administrative Officer

EXECUTIVE SUMMARY:

This report contains an analysis of the current property tax arrears as at December 31, 2017. The management of property tax arrears is a critical function to ensure that the required property tax levies are received to deliver all the essential services the County provides. Although the County collects interest on unpaid property taxes, this revenue can only be utilized when the payments are actually received. High property tax arrears are also an indication of the taxpayer's ability to pay their annual property taxes. The County's current property tax arrears are approximately 10% of total taxes levied (albeit trending lower from previous years). This is higher than our comparators, as established by the Province, and is included as one of their indicators of a municipality's financial sustainability. Although it is only one factor in assessing a municipality's sustainability, the Province considers arrears greater than 10% as a moderate challenge to a municipality's sustainability. It is important to note that the arrears percentage has steadily decreased over the past 4 years from a high of 12.3% in 2014 (excluding the US Steel bankruptcy anomaly) to the current low of 10.0% at the end of 2017.

The current legislation, as amended in 2017, provides the ability to register a tax arrears certificate on a property where any part of the taxes owing to the municipality, on January 1st, is two years overdue or older. The property owner has one year, from the date of tax sale registration, to pay the arrears in full to avoid a public sale of the underlying property. These legislative provisions have been utilized by the County for all eligible properties on an annual basis as a means to collect overdue tax arrears.

Similar to prior years, staff have initiated the tax sale registration process with notice letters being sent out in May to all 331 eligible properties. These notices are not required under the Municipal Act but have been used by Haldimand County as one extra step to aid property owners in finding a solution to their tax arrears prior to the last resort – tax registration and ultimately public tax sale. There is an administrative fee charged to the property owner's tax account (currently \$260) to cover the underlying collection costs associated with the notice process. As shown in this report, this notice process has been very successful in the past in clearing property tax arrears on most eligible properties and avoiding tax registration and other significant collection costs to be recovered from the property owner.

BACKGROUND:

The purpose of this report is to provide additional details of the status of property tax arrears as at December 31, 2017 and update Council with respect to the current tax registration process utilized by the Finance Division. This process has been in place since 2008 in an effort to address the number of properties eligible for tax sale registration.

As part of a review of the Municipal Act, initiated by the Province in late 2015, Bill 68 Modernizing Ontario's Municipal Legislation Act was enacted in the summer of 2017. One of the most significant changes is the reduction in the time that tax arrears on a property have to be owing before a municipality can start the tax registration process – reducing the time lines from three years to two years. This change was made primarily based on consultations/feedback from municipal representatives and representing Associations (i.e. Municipal Finance Officers Association). It was felt that the current three year provision allowed property tax arrears to grow to a point where some property owners could not afford to pay the arrears and penalties/interest that had accumulated on these accounts. The tax registration process is the last resort in an effort to obtain property tax arrears owed to the municipality.

Ultimately, the tax registration process has collected a significant portion of the taxes that, had this process not been initiated, would not have been realized. The balance of this report summarizes the historical results of the tax registration/collection process, including the details of the current properties eligible for registration.

ANALYSIS:

Analysis of Tax Arrears

The table below provides a comparison of total tax arrears as at December 31st, 2017 in relation to Haldimand County's annual tax levy. "Eligible properties" are those that have outstanding taxes greater than two years as at January 1, 2018 (i.e. owing monies from 2016 or earlier). The tax arrears on eligible properties represent total taxes owed up to December 31st, including interest.

Table 1: Annual Property Tax Arrears Analysis

Property Tax Arrears	2014	2015	2016	2017
Annual Tax Levy (County and Education)	\$75,366,476	\$77,880,971	\$77,898,688	\$78,530,008
Total Tax Arrears	\$9,274,756	\$8,627,948	\$8,336,633	\$7,870,093
% of Tax Arrears to Total Levy	12.3%	11.1%	10.7%	10.0%
Tax Arrears on Eligible Properties	\$4,825,552	\$4,154,089	\$4,544,795	\$2,759,136
Eligible Properties as % of Total Arrears	52.0%	48.1%	54.5%	35.1%

The annual Financial Information Return (FIR) includes key financial indicators in order to compare municipalities against established Provincial thresholds. One of the financial sustainability indicators is the Total Taxes Receivable (Arrears) as a percent of Total Taxes Levied, with the following benchmarks/“levels of challenge”:

- Low: <10%
- Moderate: 10% - 15%
- High: >15%

The County’s Total Tax Arrears, as shown in Table 1, are just within the “Moderate” challenge category and the percentage is the lowest it has been in over seven years. When the current collection process was introduced ten years ago, the tax registration process was expected to significantly reduce the number of properties eligible for tax sale (and thus the amount of arrears outstanding). To date significant progress has been made to reduce the overall tax arrears and percentage of total taxes levied. Over the past four years, the overall dollar value of arrears has been reduced by approximately \$1.4 million and the percentage of arrears to total tax levy has been reduced from 12.3% to 10.0%. Although this is just at the Province’s threshold of “moderate”, with the ability to begin the tax sale process one year earlier, it is expected that we will see continued positive progress in reducing the overall arrears. This is evidenced by the results during 2017 (the first year of the reduced number of years eligible for registration) whereby the eligible value of arrears and percentage of total arrears decreased significantly by approximately a \$1.8 million and nearly 20% reduction in one year. A detailed breakdown of the arrears by Eligible Properties is included in Attachment 1.

However, somewhat disturbing is the fact that although the value and percentage of total arrears has been steadily declining, the number of accounts in arrears has been increasing. From the end of 2014 until the end of 2017, the number of properties eligible for tax arrears registration increased by 465 (from 2,462 to 2,927). This would imply that the recovery/payments from properties eligible for registration has been outmatched by the accumulation of arrears by new properties not yet eligible for tax sale registration. As there are approximately 400 (see Table 2) remaining eligible properties, the balance of the 2,500 properties in tax arrears only have arrears in 2017 and 2018. A review of these properties indicates the majority (approximately one half) of these properties are residential homes.

Staff will continue to encourage methods to reduce properties from accumulating current arrears, such as additional arrears notices during the year and promotion of automated payment options.

Properties Eligible for Tax Sale

As of January 1, 2018, Haldimand County had 646 properties which were two years or more in tax arrears and eligible for a tax arrears certificate registration. This represents 3% of the total of 21,647 properties that are billed taxes annually. The breakdown, with comparisons to prior years, is as follows:

Table 2: Properties Eligible for Tax Sale

Properties Eligible for Tax Sale Registration	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Properties as per S. 373 (1)	396	400	368	771	646
Properties with sufficient arrears paid - no longer eligible for registration	-81	-111	-127	-274	-245
Subtotal	315	289	241	497	401
Properties with active payment plans	-13	-10	-24	-16	-34
Properties with previous registered tax arrears certificate - to be put up for tax sale	-26	-23	-13	-12	-23
Properties from failed tax sale - to be "vested" (*)	-1	0	-1	0	0
Properties from failed tax sale - to be re-advertised	-2	-2	0	0	-1
Provincial/Federal properties subject to alternative collection methods	-7	-5	-6	-8	-6
Properties subject to further inquiry and alternative collection methods	0	0	0	0	-4
Properties in legal disputes - registered for tax sale; not to be advertised at this time	0	0	-1	0	0
Other Properties - not recommended for registration at this time (*)	-1	-1	-1	-2	-2
Properties Eligible for Tax Arrears Certificate Registration	265	248	195	459	331

(*) – details related to these properties are outlined in Confidential Memo CS-FI-M02-2018.

Similar to prior years, staff have initiated the tax sale process on all 331 eligible properties beginning in May of 2018. The initial tax arrears notices were sent to the eligible properties dated May 14, 2018 and the Council approved administration fee of \$260 was added to all accounts. The two properties that staff are recommending not following the regular process at this time (and consequently did not receive a notice), have been reported to Council in the confidential addendum CS-FI-M02-2018 with the associated rationale. The process of initiating the tax sale process on all eligible properties is more transparent to the public and equitable to all taxpayers in arrears (prior to 2013, only properties based on selected criteria were included in the tax registration process). The years 2017 and 2018 include properties with more than two years of arrears compared to three years in arrears for pre-2017 years. Although this resulted in more eligible properties, the process is already having favourable results on the number of properties eligible for tax registration.

Historical Results of Tax Sale Process

The following table provides the results of the previous 4 years registration/collection process:

Table 3: Results of Previous Tax Registrations

Registration Process Results	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Properties Notified	265	248	195	459
Properties that paid in full	-72	-27	-48	-73
Properties with signed payment plan	-47	-49	-14	-73
Properties with payments sufficient to clear eligibility	-99	-116	-79	-188
Properties Registered as a Result of Failed Payment Plan	12	3	0	8
Properties Registered for Tax Arrears Certificate	59	59	54	133
Properties paid in full after Registration (at time of Report)	-48	-46	-49	-110
Properties Eligible for Public Tax Sale	11	13	5	23
Properties Sold through Public Tender	<u>-10</u>	<u>-12</u>	<u>-4</u>	n/a*
Properties Eligible to be Vested/Re-advertised	<u>1</u>	<u>1</u>	<u>1</u>	n/a*
Properties Re-advertised and Sold through Public Tender	0	0	0	n/a*
Properties eligible to be re-advertised	-1	-1	-1	n/a*
Properties Failed Tax Sale to be "vested" in County ownership	<u>0</u>	<u>0</u>	<u>0</u>	n/a*

* Tax Sale not eligible to be conducted until August of 2018

As outlined in the above chart, the current registration process has been very successful in collecting the arrears on eligible properties. Ultimately, the majority of the properties eligible for registration get paid and never reach the Public Tax Sale process (on average, less than 5% of eligible properties proceed to tax sale). The majority of the properties that reach the Public Tax Sale process were abandoned, the owners can no longer be contacted or the properties are no longer wanted by the former owners. Over the past three years (2014 to 2016), only one property per year has "failed" the tax sale process. One property was ultimately paid in full by the current owner and did not require any further action, the two remaining properties are detailed in the Confidential Addendum to this report with recommended collection efforts.

It would appear that the registration process is effective in reducing tax arrears on properties eligible for registration (the annual process collects in excess of \$1.5 million in tax arrears related to these properties), but there appears to be little incentive for individuals not yet eligible for registration to clear their accumulated arrears, despite the 15% per annum penalty/interest charge. Staff have been reviewing options/methodologies to solicit payments on properties in tax arrears before they actually become eligible for tax registration. This would be in addition to the regular arrears notices currently sent to these customers in an effort to elicit payments and to avoid the imposition of costly monthly interest and collection charges.

Re-Advertise/Vested Properties

After a failed tax sale (i.e. no successful purchaser), the County has the option of “vesting” the property in the County’s ownership within two years of the failed tax sale or leaving the property in the original owner’s name. The County also has the option of re-advertising the property before it vests the property. As part of the tax sale process, staff inquire as to the status of the property to ensure there are no unforeseen issues with the associated properties (i.e. potential liabilities, environmental concerns, etc.) Typically, staff will not recommend initiating a tax sale if there are concerns that would negate the County from wishing to vest the property after a failed tax sale.

The Municipal Act provides for the write-off of taxes (other than reductions provided under tax relief/reduction programs) under the following circumstances:

- Council authority based on the recommendation of the Treasurer; and
- After an unsuccessful tax sale.

Typically, staff will re-advertise the properties for a second tax sale before recommending any taxes to be written-off. The County has had moderate success in re-advertising properties for tax sale a second time without writing any property taxes off. Since 2011, four properties have been re-advertised and have sold for the full property taxes owing. On the contrary, two properties required the taxes to be reduced to \$500 in 2015 and were successful after this reduction during a second public tax sale (i.e. a bid in excess of the minimum taxes owing was received).

The ability to write-off property taxes after a failed tax sale and re-advertise at a lower amount than the cancellation price is typically recommended if it is felt the tax arrears were too high to solicit an offer to cover the full amount owing. For reasons outlined in report CS-FI-M02-2018 Confidential Addendum to Report CS-FI-11-2018, one property is recommended to have the tax arrears reduced to \$500 for the sole purpose of achieving a compliant bid that meets or exceeds this revised cancellation price during a future public tax sale process is recommended. The value of \$500 will cover the administration costs of the tax sale process (set by by-law at \$260) and the advertising costs associated with the tax sale process (averaging approximately \$250 depending on number of properties advertised). If the County receives a compliant/qualified bid, any proceeds in excess of the \$500 (up to the original value of the property tax arrears) will be used to offset any taxes that have been written off.

FINANCIAL/LEGAL IMPLICATIONS:

Although properties with tax arrears are subject to monthly interest charges (at the rate of 15% per annum), the majority of these eligible properties have had no substantial payments in several years. As a result, from a cash flow perspective, the County has not received any of the accumulated interest charges nor the principal amount of the levied taxes.

All fees associated with the tax sale process are recoverable through adding them to the cancellation price. The approved 2018 Tax Supported Operating Budget includes an amount of \$55,360 (excludes staff time for the administration of public tax sale process) for recoverable administration fees charged to the properties that are entered into the tax sale process.

The recommended tax write-off for the one failed tax sale property, estimated to be approximately \$7,500, will form part of the annual tax allowance. There is currently sufficient allowance to cover the recommended write-off.

Also, pending further analysis, it is possible that less penalty and interest revenue may be generated in future years as property owners make payments against arrears sooner to avoid the tax sale. It is also likely that, under the new process, the County will see a lesser portion of property tax accounts in

arrears which would result in better cash flow for the County and improve this financial health indicator by putting less funds at risk of non-collection.

STAKEHOLDER IMPACTS:

Properties eligible for tax sale may have outstanding issues related to other service areas of the County (i.e. Fire, By-law, Planning etc.). A list of properties is sent annually to the departments that may be impacted. If any issues are identified prior to registration that may impact the County's ability to continue with the tax sale, staff will notify Council with a recommended approach on a go forward basis.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Summary of Properties Eligible for Tax Arrears Registration - by Property Type