
HALDIMAND COUNTY

Report FIN-12-2019 Tax Arrears Analysis and Collection Results on Properties Eligible for Tax Sale

For Consideration by Council in Committee on August 27, 2019



OBJECTIVE:

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

RECOMMENDATIONS:

1. THAT Report FIN-12-2019 Tax Arrears Analysis and Collection Results on Properties Eligible for Tax Sale be received as information;
2. AND THAT FIN-M03-2019 Confidential Addendum to Report FIN-12-2019 be received as information and remain confidential.

Prepared by: Mark Merritt, CPA, CA, General Manager of Financial & Data Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

This report contains an analysis of the property tax arrears as at December 31, 2018. The Municipal Act ("Act") establishes specific collection processes to assist municipalities to collect unpaid property taxes. The Act, 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 last resort to collect overdue tax arrears.

Similar to prior years, the County has utilized an internal collection process before initiating the tax registration process under the Act. The process began in May with staff sending notice letters to all 303 eligible properties. These notices are not required under the Act but have been used by Haldimand County as an aid to assist property owners in finding a solution to their tax arrears prior to the last resort – tax registration and ultimately public tax sale. As shown in this report, this notice process has been very successful in the past in clearing property tax arrears on most eligible properties, effectively avoiding tax registration and significant collection costs which would need to be recovered from the property owner.

The management of property tax arrears is a critical municipal tool which helps ensure required property tax levies are received. 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 an indication of the municipality's taxpayer's ability to pay their annual property taxes. The County's current property tax arrears are approximately 8% of total taxes levied, which is significantly lower than previous years and places Haldimand within the "low" level of risk category established by the Province. While

the value and percentage of total arrears has been steadily declining, the number of accounts eligible for tax arrears registration has increased from 2,392 in 2015 to 3,139 in 2018.

BACKGROUND:

The purpose of this report is to provide additional details of the status of property tax arrears as at December 31, 2018 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 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 collection and registration 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 31, 2018 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, 2019 (i.e. owing monies from 2017 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	2015	2016	2017	2018
Annual Tax Levy (County and Education)	\$77,880,971	\$77,898,688	\$78,530,008	\$81,797,660
Total Tax Arrears	\$8,627,948	\$8,336,633	\$7,870,093	\$6,540,492
% of Tax Arrears to Levy	11.1%	10.7%	10.0%	8.0%
Number of Total Properties in Arrears	2,392	2,661	2,927	3,139
Tax Arrears on Eligible Properties	\$4,154,089	\$4,544,795	\$3,692,287	\$2,573,580
Eligible Properties as % of Total Arrears	48.1%	54.5%	46.9%	39.3%
Number of Eligible Properties	400	368	771	646

Although the percentage of arrears is reduced from previous years, it is still 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 municipalities

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 8.0% at the end of 2018.

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 or "levels of challenge":

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

The County's Total Tax Arrears, as shown in Table 1, are within the "Low" challenge category and the percentage is the lowest it has been in over seven years (municipalities in the "High Risk" category are contacted by Ministry staff to see how the municipality intends to address the situation). 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 \$2.1 million and the percentage of arrears to total tax levy has been reduced from 11.1% to 8.0%. Haldimand County is now at the Province's threshold of "low", mainly due to the ability to begin the tax sale process one year earlier, which has resulted in 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.

However, somewhat disturbing is the fact that although the value and percentage of total arrears has been steadily declining, the physical number of accounts in arrears has been increasing. From the end of 2015 until the end of 2018, the number of properties eligible for tax arrears registration increased by 747 (from 2,392 to 3,139). This would imply that the recovery/payments from the number of properties eligible for registration has been outmatched by the number of new properties not yet eligible for tax sale registration. As there are approximately 600 (see Table 2) remaining eligible properties, the balance of the 2,500 properties in tax arrears only have arrears in 2018. A review of these properties indicates the majority (approximately one half) of these properties are residential homes. Although staff do not have specific reasons for the increase in number of current accounts in arrears, a more detailed review of the residential properties indicates that a large number of these properties have relatively minor arrears in relation to their annual property taxes. This would indicate that small amounts remain unpaid due likely to interest or other charges added to the account (i.e. water or by-law charges) that were not subsequently paid. This also aligns with the fact that although there are more accounts in arrears, the overall value of the arrears is dropping.

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.

Collection Results for Properties Eligible for Tax Sale

As of January 1, 2019 Haldimand County had 607 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 22,311 properties that are billed taxes annually. The breakdown, with comparisons to prior years, is as follows:

Table 2: Properties Eligible for Tax Sale Process Results

Properties Eligible for Tax Sale Process Under the Municipal Act	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Total Eligible Properties as per S. 373 (1) as at January 1	400	368	771	646	607
Properties with sufficient arrears paid - no longer eligible for registration	-111	-127	-274	-245	-266
Properties with active payment plans	-10	-24	-16	-34	-2
Properties with previous registered tax arrears certificate - to be put up for tax sale	-23	-13	-12	-23	-16
Properties from failed tax sale - to be "vested" (*)	0	-1	0	0	0
Properties from failed tax sale - to be re-advertised	-2	0	0	-1	0
Provincial/Federal properties subject to alternative collection methods	-5	-6	-8	-6	-13
Properties subject to further inquiry and alternative collection methods	0	0	0	-4	-5
Properties in legal disputes - registered for tax sale; not to be advertised at this time	0	-1	0	0	0
Other Properties - not recommended for registration at this time (*)	-1	-1	-2	-2	-2
Properties Eligible for Internal Tax Arrears Collection Process (before formal Tax Registration)	248	195	459	331	303
Properties that paid in full	-27	-48	-73	-41	-18
Properties with signed payment plan	-49	-14	-73	-88	-49
Properties with payments sufficient to clear eligibility	-116	-79	-188	-139	-163
Properties Registered as a Result of Failed Payment Plan	3	0	8	10	4
Properties Registered for Tax Arrears Certificate	59	54	133	73	77

(*) – details related to these properties are outlined in Confidential Memo FIN-M03-2019.

Similar to prior years, staff have initiated the alternative tax collection process noted above on all 303 eligible properties beginning in May of 2019. The initial tax arrears notices were sent to the eligible properties dated June 14, 2019 and the Council approved administration fee of \$266 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 FIN-M03-2019 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, 2018, and 2019 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 in reducing the number of properties eligible for tax registration.

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). A detailed breakdown of the arrears by Eligible Properties as at July 5, 2019 is included in Attachment 1.

Historical Results of Tax Sale Process

The following table provides the results of the previous 4 years registration and tax sale process:

Table 3: Results of Previous Tax Registrations

	2015	2016	2017	2018
Properties Registered for Tax Arrears Certificate	59	54	133	73
Properties paid in full after Registration (at time of Report)	-46	-49	-129	-63
Properties Eligible for Public Tax Sale	13	5	4	10
Properties sold through Public Tender	-12	-4	-3	n/a*
Properties Eligible to be Vested/Re-advertised	1	1	1	n/a*
Properties Re-advertised and Sold through Public Tender	0	0	-1	n/a*
Properties eligible to be re-advertised	-1	-1	0	n/a*
Properties Failed Tax Sale to be "vested" in County ownership	0	0	0	n/a*

** data not available as these properties are currently listed for tax sale scheduled for August 21, 2019*

The majority of the properties that reach the Public Tax Sale process are either: abandoned; the owners can no longer be contacted; or the properties are no longer wanted by the former owners. Over the past three years (2015 to 2017), 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 second property had the tax arrears reduced and a second tax sale was successful in attracting a bidder. As a result, there are no properties requiring a write-off of property taxes at this time.

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 and 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, and in all occasions, successful with a reduction in tax arrears where warranted. As indicated above, there are no properties requiring a reduction in tax arrears or re-advertising for tax sale.

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 2019 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.

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