
HALDIMAND COUNTY

Report FIN-13-2022 Tax Arrears Analysis and Collection Results on Properties Eligible for Tax Sale

For Consideration by Council in Committee on November 1, 2022



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-13-2022 Tax Arrears Analysis and Collection Results on Properties Eligible for Tax Sale be received;
2. AND THAT Memorandum FIN-M03-2022 Confidential Addendum to Report FIN-13-2022 be received as information and remain confidential.

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

EXECUTIVE SUMMARY:

This report contains an analysis of the property tax arrears as at December 31, 2021 and impacts of subsequent collection efforts to date.

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. This process began in June with staff sending arrears notice letters to all 387 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 financial practice 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.

As a result of the pandemic, Haldimand County had not initiated a tax sale process since 2019. At the beginning of 2022, the County's property tax arrears were approximately 12.8% of total taxes levied, which is higher than previous years. This places Haldimand within the "moderate" level of risk category established by the Province. Through internal collection efforts, as of October 1, 2022, the County's tax arrears are approximately 6.4% of total taxes levied, this rate places Haldimand in the "low" level risk category established by the Province. The success of this program also ensure financial sustainability of the County as well as the ensuring taxpayers have the ability to pay property taxes as they are levied.

BACKGROUND:

The purpose of this report is to provide additional details of the status of property tax arrears as at December 31, 2021 and update Council with respect to the current tax collection processes 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 and provide an alternative method of collection.

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 existing 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, 2021 in relation to Haldimand County's annual tax levy. "Eligible properties" are those that have outstanding taxes greater than two years as at June 2022 (i.e. owing monies from 2020 or earlier). The tax arrears on eligible properties represent total taxes owed up to December 31st, including interest.

Table 1: Annual Year-End Property Tax Arrears Analysis

Property Tax Arrears	2018	2019	2020	2021
Annual Tax Levy (County and Education)	\$82,630,402	\$86,176,437	\$88,473,775	\$89,516,317
Total Tax Arrears	\$7,741,250	\$7,087,179	\$9,493,256	\$11,489,392
% of Tax Arrears to Levy	9.4%	8.2%	10.7%	12.8%
Number of Total Properties in Arrears	3,139	N/A	N/A	3,410
Tax Arrears on Eligible Properties	\$2,573,580	N/A	N/A	\$5,240,703
Eligible Properties as % of Total Arrears	33.2%	N/A	N/A	45.6%
Number of Eligible Properties	646	N/A	N/A	460*

* Number of Eligible Properties as at June 2022

At the start of 2022, the percentage of tax arrears was higher than previous years as shown above. 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 above, are within the "Moderate" challenge category (municipalities in the "High Risk" category are contacted by Ministry staff to see how the municipality intends to address the situation). Although, 12.8% is still within the "moderate" category risk category as identified by the Province, it is also higher than our comparators, as established by the Province, and it 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 when completing this process historically, the arrears percentage steadily decreased over the years from 2014-2019, with a high of 12.3% in 2014 (excluding the US Steel bankruptcy anomaly) to the low of 8.0% at the end of 2019.

When the current collection process was introduced over 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). Haldimand County has not started a tax collection/sale process since 2019 and has not registered any properties since 2018. This process was placed on hold due to COVID-19 for various reasons (compassion for taxpayers, ability to meet legislative timelines/requirements, etc.). As a result, the County's overall arrears increased beyond our recent historical trends. By restarting this process, the County has taken steps to reduce the outstanding arrears to normal/acceptable levels.

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 June 2022, Haldimand County had 460 properties which were two years or more in tax arrears and eligible for a tax arrears certificate registration. This represents 1.90% of the total of 24,270 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	2017	2018	2019	2022
Total Eligible Properties as per S. 373 (1) as at January 1	771	646	607	N/A
Properties with sufficient arrears paid - no longer eligible for registration	-274	-245	-266	N/A
Total Eligible Properties at Start of Process	497	401	341	460
Properties with active payment plans	-16	-34	-2	0
Properties with previous registered tax arrears certificate - to be put up for tax sale	-12	-23	-16	0
Properties from failed tax sale - to be "vested" (*)	0	0	0	0
Properties from failed tax sale - to be re-advertised	0	-1	0	0
Provincial/Federal properties subject to alternative collection methods	-8	-6	-13	-9
Properties subject to further inquiry and alternative collection methods	0	-4	-5	-59
Properties in legal disputes – not registered for tax sale;	0	0	0	-3
Other Properties - not recommended for registration at this time (*)	-2	-2	-2	-2
Properties Eligible for Internal Tax Arrears Collection Process (before formal Tax Registration)	459	331	303	387
Properties that paid in full	-73	-41	-18	-54
Properties with signed payment plan	-73	-88	-49	-69
Properties with payments sufficient to clear eligibility	-188	-139	-163	-100
Properties Registered as a Result of Failed Payment Plan	8	10	4	0
Properties Registered for Tax Arrears Certificate	133	73	77	164
Percentage of Eligible Properties Registered	29%	22%	25%	42%

(*) – details related to these properties are outlined in Confidential Memo FIN-M03-2022.

Similar to prior years, staff have initiated the alternative tax collection process noted above on all 387 eligible properties beginning in June of 2022. The initial tax arrears notices were sent to the eligible properties in two cohorts, dated June 29, 2022 and July 18, 2022. The Council approved administration fee of \$287 was added to all accounts.

Of the 59 properties subject to further inquiry and alternative collection methods, 39 of these properties had less than \$250.00 owing or less than ½ of the administration fee of \$287 owing for 2020. As a result, these properties were sent a letter to let them know that their properties were more than two years in arrears, and warn them that if they do not take action, the County may start the tax sale process at a future date. A number of these property owners made payments. The remaining 20 properties subject to further inquiry and alternative collection methods were investigated and resolved (i.e. small balances, no longer taxable, etc.).

The three properties in legal disputes were resolved and paid in full subsequent to the finalization of the process. 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-M03-2022 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). Since 2017, properties with more than two years of arrears have been included consistent with Provincial legislative changes, as compared to three years in arrears for pre-2017 years. Although this resulted in more eligible properties, the process has had favourable results in reducing the number of properties eligible for tax registration.

Based on these collection methodologies, 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 the legislative tax sale process).

Results of Internal Collections:

Table 3: Results of Collection Activities on Eligible Properties

	Number of Properties	Sum of Arrears
<i>Eligible Properties at Start of Process</i>	460	\$8,616,441
Properties Not Registered – alternative collection processes	70	\$1,859,765
Registered Properties (*)	164	\$2,895,815
Signed Payment Plans	69	\$1,092,581
<i>Collected</i>	157	\$2,768,279
	34%	32%

(*) - A detailed breakdown of the arrears by Eligible Properties as at August 31, 2022 is included in Attachment 1.

Through the internal collection process, \$2.77 million dollars in arrears were collected prior to any properties being registered. A portion of the amount collected is contributed to staff communication with taxpayers as a result of the initial letters mailed.

Projected Arrears as at October 1, 2022:

Table 4: Projected Arrears as % of Total Tax Levy

	2021 Year End	2022 as at October 1, 2022
Annual Tax Levy (County and Education)	\$89,516,317	\$91,915,502
Total Arrears	\$11,489,392	\$5,912,809
% of Tax Arrears to Levy	12.8%	6.4%

Note: The arrears as at October 1, 2022 do not include any arrears on instalments not yet due (i.e. October 31, 2022 and any Supplemental/Omit billings).

The above table shows a comparison from December 31, 2021 to the projected percentage of arrears as at October 1, 2022. As a result of the internal collection processes, significant payments have been received to bring the overall arrears percentage to levels achieved pre-COVID. In addition to the \$2.8 million collected on eligible properties noted in Table 3 above, substantial payments were received on eligible properties subject to alternative collection processes (e.g. the three properties in legal disputes, through negotiations with staff, paid in excess of \$1.5 million of tax arrears). It is anticipated that additional collections on registered properties will be realized prior to year.

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 1.25% per month or 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 2022 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 smaller 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