

City of Mississauga
Additional Agenda



General Committee

Date

December 5, 2018

Time

9:00 A.M.

Location

Council Chamber
2nd Floor
300 City Centre Drive

ADDITIONAL CORPORATE REPORT

8.9 Tax Collection Process

Contact:

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City of Mississauga
Corporate Report



Date: 2018/11/28

To: Chair and Members of General Committee

From: Gary Kent, CPA, CGA, Commissioner of Corporate Services and Chief Financial Officer

Originator's files:

Meeting date:
2018/12/05

Subject

Tax Collection Process

Recommendation

That the report of the Commissioner of Corporate Services and Chief Financial Officer dated November 28, 2018 entitled Tax Collection Process be received for information.

Report Highlights

- The tax collection process for the City of Mississauga has been established through Corporate Policy 04-02-03.
- The policy establishes a fair and equitable process for the collection of overdue municipal property taxes.
- Collection processes differ by property type and have been established for all property types, residential properties, non-residential properties and Crown tenants.
- Tax collection processes prior to municipal tax sale differ amongst municipalities; specified steps for municipal tax sale are legislated through the *Municipal Act* and apply to all municipalities.

Background

Property taxes are a secured special lien on land in priority to any other claim, except a claim by the Crown. Taxes may be recovered with costs as a debt due to the City from the original owner and/or any subsequent owner of the property.

The City billed approximately \$1.66 billion in property taxes in 2018 for municipal and school purposes of which approximately \$485 million is for City purposes. Most property owners pay

their taxes on time, with approximately 97% being paid within the year in which the taxes are billed. The level of taxes outstanding is one indicator of the City's financial health. Maintaining a low level of tax outstanding indicates a good financial condition. The following table provides a comparison of the City's collection success rate to other municipalities.

Tax Arrears as a percentage of Current Year Levy			
Municipality	2015	2016	2017
Brampton	5.1%	4.5%	5.0%
Burlington	2.3%	2.3%	2.2%
Hamilton	8.7%	8.2%	7.5%
Mississauga	2.8%	2.4%	2.1%
Toronto	4.0%	4.2%	4.0%
Vaughan	5.4%	4.8%	5.1%

Two tax bills are issued to all property owners annually. In addition, supplementary tax bills are issued to newly constructed properties or where a property has undergone renovations resulting in an increase in value. Taxes are due on the instalment dates annually established by by-law. All tax arrears are subject to late payment charges. A penalty at a rate established by by-law is added to the unpaid amount of a tax instalment on the first day after the instalment due date. In addition, as long as the property taxes remain unpaid, interest at a rate established by by-law is added on the first day of each month thereafter. Penalty and interest charges cannot be waived.

General Committee at its meeting of November 28, 2018 requested staff to bring forward an information report on the City's tax collection process for non-residential and residential properties and the tax collection process of other municipalities.

Comments

Tax collection and the municipal tax sale process are legislated by the *Municipal Act*. Legislation related to tax sales is prescriptive. Tax collection processes prior to the initial stage of tax sale are discretionary and determined by each municipality.

For property owners that may be having difficulties in paying their property taxes payment arrangements can be established at any point prior to initiating tax sale. Tax sale registration typically occurs after several years in arrears. Payment arrangements must include all tax arrears, current taxes, accruing estimates of future taxes and late payment charges and be sufficient to ensure payment in full is realized within a reasonable period of time. Late payment charges will continue to accrue during all such payment arrangements until full payment on the account has been made. Once a payment arrangement has been created, the account is monitored and any follow-up with the taxpayer is done by telephone or in writing as required. If the payment arrangement is deemed void through default then the taxpayer is notified that full

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payment of the tax arrears is required or the next collection step will be taken. Once the tax sale process has been initiated only full payment of the outstanding balance can be accepted.

The City's tax collection policy has established different collection processes for residential, non-residential and Crown tenant properties.

The City primarily uses the following methods to collect tax arrears:

- Verbal communication
- Send the taxpayer a form or personalized letter(s)
- Issue year end statements of taxes, overdue notices and final notices
- Arrange terms of payment
- Issue notices to interested parties
- Bailiff services
- Legal action, and
- Municipal tax sale

All property types with outstanding taxes will receive overdue notices, year-end statement notices and can enter into payment arrangements. Overdue notices are issued each year following the last final billing instalment, typically overdue notices are mailed in October. Each January, in accordance with legislation, a year-end tax statement is sent to all taxpayers owing taxes as of December 31st of the preceding year.

All collection costs incurred by the City to obtain information for collection purposes and/or collect tax arrears are payable by the property owner and are added to the tax account, with the exception of Bailiff fees, which are charged and collected by the Bailiff directly.

Residential Properties

The City's process for residential properties begins with the overdue and year-end notices described above until the property owner is three years in arrears then the following steps occur:

- final notice prior to tax sale,
- notice to interested parties,
- final notice prior to tax arrears certificate registration,
- registration of a tax arrears certificate, and
- municipal tax sale.

The final notice prior to tax sale is mailed during the fourth quarter for all residential property owners approaching three years in arrears. This notice advises them they have thirty days to pay or enter into a payment arrangement.

If a residential property owner fails to respond, a property title search is carried out by the City in order to identify all parties with a financial interest in the property. The identified parties are then

notified of the tax arrears. The notice to interested parties advises that the City intends to proceed with a municipal tax sale and provides interested parties with an opportunity to pay the arrears in order to protect their interest in the property.

A final notice prior to the registration of a tax arrears certificate is issued if there is no response from the property owner or the interested parties as one last notification prior to proceeding with a municipal tax sale. The notice advises the property owner that they have thirty days to pay or enter into a payment arrangement. If there is no response, the tax sale process is initiated.

Non-Residential Properties

In addition to the overdue notice and year-end notice described above, the process for non-residential properties includes the following steps once the current year's taxes are in arrears:

- final notice pre-Bailiff,
- Bailiff action,
- notice to interested parties,
- final notice prior to tax arrears registration,
- registration of a tax arrears certificate, and
- municipal tax sale.

Following the last tax instalment date of a year, a final notice pre-Bailiff is mailed to every non-residential property owner with an outstanding balance greater than \$100, advising the property owner that they have thirty days to pay their taxes or enter into a payment arrangement. Otherwise, their account will be issued to a Bailiff for collection.

If the property owner does not respond to the final notice then the account is assigned to the Bailiff for collection. Once a tax warrant is issued, the property owner makes payments on the outstanding amount directly to the Bailiff.

The tax recovery actions taken by the Bailiff may include:

- Serving a Warrant to Distrain for Taxes to the assessed address advising the property owner of such outstanding taxes, late payment charges and costs
- Mailing notices to the property owner advising that a warrant has been issued and the amount of the warrant
- Telephone contact with the property owner(s), mortgage holder(s) and all other parties with an interest on title
- Site visits
- Attornment of Rent(s), directing the tenants, if applicable, to submit rent payments to the Bailiff. Attornment of Rents are then applied against the outstanding Property Taxes
- Issuing a Warrant to Seize Goods/Chattels. The Bailiff can physically seize and remove goods/chattels from the property and ultimately sell items seized to recover the tax arrears, and

- Issuing a Warrant to Distrain Goods/Property. The Bailiff can register a common law lien against goods/property located in or on an owner's property

If the Bailiff has been unable to collect the outstanding amount and the taxes become three years in arrears, the account is returned to the City to proceed with municipal tax sale.

Crown Tenant

When Crown property is leased to or occupied by a taxable tenant, the land is assessed as if the tenant is the owner and the tenant is then responsible for the payment of property taxes. The municipal tax sale provisions of the *Municipal Act* do not apply to Crown property. In addition to issuing overdue and year-end statement notices, once a Crown tenant's current year's taxes are in arrears the following actions will be taken:

- final notice pre-Bailiff,
- Bailiff action,
- legal action and
- application to the Crown.

If the Bailiff is unable to collect the overdue amount or secure a payment arrangement within six months of the assignment date, the account is returned to the City. Legal action may then be commenced by the Legal Services Division. If all collection steps are exhausted, the City will make application to the Crown for payment of the tenant's tax arrears.

Other Municipal Tax Collection Processes

The Cities of Toronto, Burlington and Brampton use the services of a Bailiff for the collection of outstanding taxes for non-residential properties. The Cities of Toronto and Brampton also use the services of a Bailiff for the collection of residential tax arrears. Details of the tax collection processes for the Cities of Burlington, Brampton, Hamilton, Toronto and Vaughan are included in Appendix 1.

Financial Impact

There is no financial impact for this report.

Conclusion

Property taxes are a secured special lien on land in priority to any other claim, except a claim by the Crown. Taxes may be recovered with costs as a debt due to the City from the original owner and/or any subsequent owner of the property. A Corporate policy has been approved that establishes a fair and equitable process for the collection of overdue municipal property taxes from all property owners. Tax collection efforts differ amongst municipalities with some having a

more robust process than the City. Some utilize the services of a Bailiff while others rely on in-house Collection staff. While the efforts may differ, the aim of a fair and equitable process for the collection of taxes remains the same.

Attachments

Appendix 1: Municipal Tax Collection Processes



Gary Kent, CPA, CGA, Commissioner of Corporate Services and Chief Financial Officer

Prepared by: Louise Cooke, Manager Revenue and Taxation

Tax Collection Processes - Residential			
Municipality	Overdue Notices	Final Notice / Collection Letters	Bailiff Action
Mississauga	Issued following the last instalment date, typically in October Year-end statements issued in January for all accounts in arrears as of December 31	Issued during the fourth quarter to all property owners approaching 3 years in arrears	Not Used
Brampton	Issued in May and October, additional overdue notice for high balances > \$10,000	Issued to properties approaching 3 years in arrears	If the property owner fails to respond to the final notice, the account may be issued to a bailiff
Burlington	Issued in the month following a due date and December	Issued in the second quarter of the year to all property owners with 3 years in arrears indicating next collection steps will be taken by October 31 st if payment is not received A second collection letter is issued in the third quarter if no response	Not Used
Hamilton	Issued 4 times a year following each instalment due date	Issued in January for all accounts in arrears for 3 years	Not Used
Toronto	Property owner may be contacted by the Revenue Collector to arrange payment	In April, a final notice is mailed if the tax account has a previous year's outstanding balance The tax payer has 21 days to pay in full or enter into a payment arrangement	If the property owner fails to respond to the final notice, the account is issued to a bailiff at the beginning of May
Vaughan	Issued in January, April, August and November	Important Notice issued in November to properties approaching 3 years in arrears Final Notice issued in February to properties that did not pay after the Important Notice was issued and are now three years in arrears	Not Used

Tax Collection Processes – Non-Residential			
Municipality	Overdue Notices	Final Notice / Collection Letters	Bailiff Action
Mississauga	Issued following the last instalment date, typically in October Year-end statements issued in January for all accounts in arrears as of December 31	Following the last tax instalment date of a year, a final notice pre-Bailiff is issued to all property owners with an outstanding balance greater than \$100	If the property owner fails to respond to the final notice, the account may be issued to a Bailiff
Brampton	Issued in May and October, additional overdue notice for high balances > \$25,000	Issued to properties approaching 3 years in arrears	If the property owner fails to respond to the final notice, the account may be issued to a Bailiff
Burlington	Issued in the month following a due date and December	Issued in the first quarter of the year to all property owners with 3 years in arrears	If property owners do not respond to the Collection Letter, account may be assigned to the Bailiff
Hamilton	Issued 4 times a year following each instalment due date	Issued in January for all accounts in arrears for 3 years	Not Used
Toronto	Property owner may be contacted by the Revenue Collector to arrange payment	In November, a final notice is mailed if the tax account has a current year's outstanding balance The tax payer has 21 days to pay in full or enter into a payment arrangement	If the property owner fails to respond to the final notice, the account is issued to a Bailiff the beginning of January of the following year
Vaughan	Issued in January, April, September and November	Important Notice issued in November to properties approaching 3 years in arrears Final Notice issued in February to properties that did not pay after the Important Notice was issued and are now three years in arrears	Not Used