



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	November 21, 2016
<b>SUBJECT/REPORT NO:</b>	Annual Tax Arrears Information as of December 31, 2015 (FCS16090) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Larry Friday (905) 546-2424 Ext. 2425
<b>SUBMITTED BY:</b>	Mike Zegarac General Manager Finance and Corporate Services Department
<b>SIGNATURE:</b>	

## Council Direction:

Not Applicable.

## Information:

Property Taxation is the major revenue source for the City of Hamilton to fund its operations. We must ensure that this major source of revenue is protected and monitored closely. This report shows the level of arrears as of December 31, 2015 and the steps in the collection process to protect these collectibles. The tax process is a highly regulated process under the Municipal Act. This information report focusses on a five year analysis of the arrears and the steps taken by the Taxation Division to ensure collection of those arrears is protected.

While the information in this report illustrates rather large tax arrears amounts, the City for the most part, is protected in that it has priority lien status on the property and eventually will collect taxes and other charges owing should it come down to the eventual tax sale of a property. This report will show that over the last 5 years we have collected 99.9% of all tax revenues billed.

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Table 1 is an analysis of the tax arrears from 2011 to 2015. This includes taxes due as of December 31, 2015 plus any additions added to taxes for such things as water arrears and property standards charges.

**Table 1**  
**5 Year Analysis of Taxes Receivable**

	12/31/2015	12/31/2014	12/31/2013	12/31/2012	12/31/2011
Taxes Past Due	\$81,008,372	\$83,100,003	\$78,410,723	\$78,286,196	\$80,608,763
Increase/(Decrease) Over Previous Year	(\$2,091,631)	\$4,689,280	\$124,527	(\$2,322,567)	\$6,658,583
Percentage Increase/(Decrease)	(2.51%)	5.98%	0.02%	(2.88%)	9.00%
Taxes Due Plus Additions to Tax Roll	\$1,011,641,806	\$975,197,854	\$948,684,445	\$920,449,126	\$901,807,528
Increase/(Decrease) Over Previous Year	\$36,443,952	\$26,513,409	\$28,235,319	\$18,641,598	\$22,357,438
Percentage Increase/(Decrease)	3.74%	2.79%	3.07%	2.07%	2.54%
% of Arrears to Taxes Levied	8.01%	8.52%	8.27%	8.51%	8.94%
* MBNC % of Arrears to Taxes Levied	4.5%	4.9%	5.0%	4.9%	4.76%

\*MBNC is the acronym for the Municipal Benchmarking Network Canada Initiative consisting of comparator municipalities.

2015 saw a slight decrease in our overall arrears from the previous year, while we also saw a drop in our arrears as a percentage of the overall taxes due by a half percentage. In 2015 we added two extra reminder notices which we feel has contributed somewhat to the drop in arrears. Contributing to our large arrears are three major industrial properties whose combined arrears as of December 31, 2015 was \$15,939,418. These will be discussed in more detail in the next section – “Arrears by Property Type”. Factoring these arrears out and our total arrears as a percentage of the taxes and other charges billed would drop to 6.43%, which would be much closer to our MBNC comparators.

**Breakdown of Arrears by Property Type**

The following Table provides a view of the different tax classes and the amounts owed by year, along with the percentage that the tax class arrears are to the overall yearly arrears. The second portion shows how many properties are in arrears by tax class type, and what percentage that is of the overall total of properties in arrears.

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**Table 2**

**5 Year Analysis of Receivables by Property Type**

	12/31/2015	12/31/2014	12/31/2013	12/31/2012	12/31/2011
Total Arrears	<b>\$91,059,641</b>	<b>\$86,800,951</b>	<b>\$80,804,462</b>	<b>\$80,922,784</b>	<b>\$81,416,414</b>
Vacant Land	\$2,198,808 2.41%	2,446,105 2.82%	\$2,062,300 2.55%	\$2,483,479 3.07%	\$4,784,454 5.84%
Farm/Managed Forest	\$2,050,572 2.25%	2,075,802 2.39%	\$1,936,389 2.40%	\$2,090,231 2.58%	\$4,161,818 5.08%
Residential	\$49,830,344 54.72%	50,808,433 58.53%	\$50,327,794 62.28%	\$48,094,126 59.43%	\$49,004,511 59.86%
Commercial	\$14,341,232 15.75%	\$9,945,973 11.46%	\$10,410,405 12.88%	\$10,632,203 13.14%	\$10,947,343 13.37%
Industrial	\$22,621,460 24.84%	\$19,668,087 22.66%	\$15,015,276 18.58%	\$16,468,524 20.35%	\$11,766,332 14.37%
Other	\$17,225 .02%	\$1,856,550 2.14%	\$1,052,298 1.30%	\$1,154,221 1.43%	\$1,201,956 1.47%
<b># of Properties</b>	<b>16,505</b>	<b>15,926</b>	<b>16,273</b>	<b>16,145</b>	<b>16,796</b>
Vacant Land	661 4.0%	568 3.57%	674 4.14%	735 4.55%	793 4.72%
Farm/Managed Forest	411 2.49%	386 2.42%	406 2.49%	402 2.49%	447 2.60%
Residential	14,373 87.08%	13,829 86.84%	14,073 86.48%	13,842 85.74%	14,250 84.84%
Commercial	784 4.75%	736 4.62%	733 4.50%	726 4.50%	808 4.81%
Industrial	274 1.66%	339 2.13%	345 2.12%	390 2.42%	441 2.63%
Other	2 0.01%	52 0.33%	42 .26%	50 .31%	57 .34%

The amounts and number of properties in arrears by class type are fairly consistent year to year, with industrial showing the largest year over year increase in 2015. There are three large industrial properties driving this up, as well as the overall arrears in general. US Steel in 2015 was allowed by the *Companies' Creditors Arrangement Act (CCAA)* process to temporarily cease paying property taxes starting with their September instalment. Max Aicher North America had purchased two mills from US Steel in 2011 for which they have idled one and have had labour disruptions at the second. They also have outstanding taxes as well as assessment appeals on both properties which look to be settled in 2016. They have also started production back in the one mill and have begun to pay off the tax arrears on both properties in 2016. National Steel Car is significantly in arrears and a tax lien has been placed on the property in 2015. This one is being monitored closely, and the City has been served with notice of a lawsuit over flooding issues at National Steel Car regarding storm water run-off that we will be monitoring, as potential tax sale proceedings near in early 2017.

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**Penalty and Interest Analysis**

Table 3 shows the penalty and interest charges accumulating on the accounts in arrears. Taxpayers are charged 1.25% per month (15% per year) for any taxes that are past due. This is a significant fee they are charged, which we will eventually collect. Even with such a large fee, some taxpayers continue to pay late and accumulate these fees. In May of 2009 the charge was lowered to 1% per month (12% per year), as a measure to assist taxpayers facing an uncertain economic future due to the global downturn. The rate was raised back up to 1.25% per month as of July 1, 2013 as a further incentive for the taxpayers to keep their taxes current, which accounts for the large jump in 2013. 2013 to 2014 also shows a large increase as the 2013 was based on a 12% rate for 6 months before rising to the current 15%

**Table 3**

**5 Year Analysis of Penalty and Interest Charges**

	12/31/2015	12/31/2014	12/31/2013	12/31/2012	12/31/2011
Actual's	\$11,904,628	\$11,748,414	\$10,477,042	\$9,216,129	\$9,113,879
<b>Increase/(Decrease) over Previous Year</b>	\$156,214	\$1,271,372	\$1,260,913	\$102,250	\$787,210
<b>% Increase/(Decrease) over Previous Year</b>	1.33%	12.13%	13.68%	1.12%	9.45%

Significant revenues are generated through penalties and interest for late payments, which is a cost borne by taxpayers who choose to pay late. With the two additional reminder notices sent now, penalty and interest revenue only grew slightly in 2015. If the three large industrial arrears are factored out, penalty and interest would be slightly down.

**Tax Collection Efforts**

There are a number of steps taken to ensure our taxes receivable are ultimately collected and protected:

- Any arrears are indicated on both of our billings (Interim and Final).
- The large penalty and interest charged on accounts in arrears being 15% per year.
- Starting in 2015, we issued four reminder notices per year (one in March, May, July and October, after each instalment due date) versus the 2 sent previously.

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Preliminary results show this is having a positive effect in collections, and it enhances customer service by advising taxpayers earlier where a potential problem may exist (i.e. bill not received in the mail, new owner who did not get bill from previous owner, misapplied payment to another tax account, etc).

- When a property does go three years in arrears, a separate letter is sent advising the taxpayer a lien will be registered should the arrears not be dealt with and any interested parties registered on title such as a mortgage company will be notified of these arrears.
- For taxpayers who ignore our three years in arrears letters, liens get registered on title and notices are sent to anyone on title including mortgage holders. At this time, our costs are also added to the tax account. We do this annually and attempt to register liens on all properties that have entered three years in arrears, starting with the largest amount owed.
- We run, on average, 2 tax sales per year as the last step to collect what is owed. For the most part, we collect the taxes owed at this stage either from the property owner or from a successful bidder.

Table 4 identifies the number of arrears notices sent in March, May, July and October, as well as, the number of properties in arrears as of year-end.

**Table 4**

**5 Year Analysis of Arrears Notices issued**

	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
# of March Reminders	20,016	N/A	N/A	N/A	N/A
# of May Reminders	21,371	21,674	22,336	22,851	22,470
# of July Reminders	19,929	N/A	N/A	N/A	N/A
# of Oct Reminders	23,176	24,509	24,285	23,333	23,597
# of Properties Billed	172,841	170,928	169,588	167,761	165,520
# of Properties in Arrears at year-End	16,505	15,925	16,273	16,147	16,796
% of Properties in Arrears	8.74%	9.32%	9.60%	9.63%	10.15%

As the above Table 4 illustrates, the reminder notices, after the billing, assist greatly in persuading certain taxpayers to pay and helps resolve issues, sooner rather than later, for such things as a missed payment, a misapplied payment, misplaced or lost bills, etc. By year end, the number of taxpayers in arrears drops significantly. This may also have

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much to do with what they can claim on their personal income tax returns for Ontario Tax credits. The percentage of properties in arrears at year end has been slightly decreasing every year.

**Tax Registration**

Table 5 breaks down the number of properties, on a yearly basis, that do go three years in arrears. Our letters will elicit a number of responses from promises to pay, payment arrangements, payment of the third year in arrears, payment in full, or those that totally ignore the City's request.

The Taxation Division sorts and monitors these arrears by the above categories and begins to register liens on those who have ignored their arrears, starting with those that owe the most. The Taxation Division also monitors arrears of taxpayers who have made promises and move them into the registration process if those promises are broken.

The tax registration and sale of properties is regulated under Part XI of the *Municipal Act, 2001*. Once a property is eligible to be registered, an extensive title check is required to determine who is registered on title. Once the lien is registered, the Taxation Division must send notices within 30 days to all parties registered on title. In many cases, Mortgage companies will take action to protect their interest and work with the taxpayer on the arrears or use their Power of Sale legislation. The full costs of this process are covered, via tax user fees, approved each year by City Council as part of the user fee by-law.

If the tax situation is not addressed on receiving the Notice of Registration, then Final Notices must be sent after 270 days of registering a lien and a tax sale cannot take place before one year (365 days) have passed since the registration of the lien.

Table 5 shows how many properties, per year, receive 3-years in arrears letters versus how many are actually registered.

**Table 5**

**5 Year Analysis of Tax Registration / 3 years in Arrears Letters issued**

	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
3-years in Arrears letters	1,408	1,604	1,446	1,840	1,562
Increase / (Decrease) over Prior Year	(196)	158	(394)	278	91
Properties Registered with Tax Lien	500	500	500	400	377
% Registered per Year	35.51%	31.17%	34.58%	21.74%	24.14%

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In 2015, the number of properties being issued letters for being three years in arrears dropped from 2014. The number of properties falling behind three years continues to be a concern, as does the number of tax liens we place on properties and the number of properties we take to sale every year. In many cases, the taxpayers sell their properties to satisfy their debts or their mortgage companies have to get involved, either re-financing the property or going to power of sale.

### **Tax Sale of Properties**

The actual tax sale of a property is the final step of the process and one with serious consequences. When a property goes to tax sale, a number of the properties generally, at this time, get rectified by the owners and pulled from the actual sale. Every effort possible is made to allow property owners to keep their properties by paying their taxes. On many of the properties that go to sale, properties may also have large property standard charges and/or metered water charges added to taxes, as well as Federal and/or Provincial liens. We also run into a number of estate issues where no will exists. A further issue is where slivers of properties that should never have been created and have been over-valued and where the only means to rectify the problem is through the tax sale process.

Of the properties that end up going through to the final bidding process, these can have three results:

1. They sell for at least the minimum bid (taxes owing including all charges and fees) and the city recovers all that is owed.
2. They do not sell and the City does not vest the property over to the city due to liability concerns. These properties are then dealt with by our process for potentially contaminated properties, or re-valued by Municipal Property Assessment Corporation (MPAC) to a reasonable value for un-buildable land and left in the current owner's name.
3. They do not sell and the City then vests the property. Real Estate would then attempt to sell the properties vested for the best price we can get, at which time a report goes to council to write-off any difference between what it sold for and the taxes owing.

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**Table 6**

**5 Year Analysis of Tax Sales**

	2015	2014	2013	2012	2011
Letters sent advising of impending tax sale	121	62	72	69	65
Properties Advertised for tax sale	28	32	20	20	26
% to Tax Sale	23.14%	54.84%	27.78%	28.99%	40.00%
Sold at Tax Sale	4	7	4	5	2
% Sold at Tax Sale	14.29%	21.87%	20%	25%	7.69%
Rectified by Taxpayer	19	22	14	14	23
%Rectified	67.86%	64.70%	70.00%	70.00%	88.46%
No Bids Received	5	3	2	1	1
% with No Bids	17.85%	14.70%	10.00%	5.00%	3.85%
Sold at a later date by Real Estate	2	1	1	0	3

**Tax Write-Offs**

Table 7 shows, on a yearly basis, the amount of taxes that have been written off, by Council approval, as uncollectible.

**Table 7**

**5 Year Analysis of Council Approved Write-Offs under Section 354 of the Municipal Act**

	2015	2014	2013	2012	2011
Write-Offs Approved by Council	\$7,928	\$2,015	\$164,062	\$342,138	\$84,525
Taxes Levied for the year	\$1,011,641,806	\$965,362,097	\$945,963,819	\$918,216,899	\$898,918,146
% of Taxes Levied – Collected	99.99%	99.99%	99.98%	99.96%	99.99%

As Table 7 illustrates, even though our arrears are rather high, the City will eventually collect, on average, 99.9% of the taxes levied.

LF/cr