INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	March 2, 2018
SUBJECT/REPORT NO:	Annual Tax Arrears as of December 31, 2017 (FCS18027) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Maria Di Santo (905) 546-2424 Ext. 5254
SUBMITTED BY: **SIGNATURE:**	Rick Male Director, Financial Services, Taxation and Corporate Controller Finance and Corporate Services Department

Council Direction:

Not Applicable.

Information:

Property Taxation is the main revenue source for the City of Hamilton to fund its operations. As such, the City must ensure that this major source of revenue is protected and monitored closely. This report shows the level of arrears as of December 31, 2017 and the steps in the collection process to protect these receivables. The tax process is a highly regulated process under the Municipal Act. This information report focusses on a five year analysis of the tax arrears and the steps taken by Taxation staff to ensure the collection of these arrears.

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

Table 1 is an analysis of the tax arrears from 2013 to 2017.

Table 1

5 Year Analysis of Tax Arrears

	12/31/2017	12/31/2016	12/31/2015	12/31/2014	12/31/2013
Total Arrears[1]	$68,792,042	$82,770,634	$81,008,372	$83,100,003	$78,410,723
Increase/(Decrease) Over Previous Year	($13,978,592)	$1,762,262	($2,091,631)	$4,689,280	$124,527
Percentage Increase/(Decrease)	(16.89%)	2.18%	(2.51%)	5.98%	0.02%
Current Taxes Levied Plus Additions to Tax Roll	$1,049,614,426	$1,039,473,707	$1,011,641,806	$975,197,854	$948,684,445
Increase/(Decrease) Over Previous Year	$10,140,719	$27,831,901	$36,443,952	$26,513,409	$28,235,319
Percentage Increase/(Decrease)	0.98%	2.75%	3.74%	2.79%	3.07%
% of Total Arrears to Current Taxes Levied	6.55%	7.96%	8.01%	8.52%	8.27%
Municipal Benchmarking Network Canada (MBNC) – Current Year's Tax Arrears as a % of Current Year Levy					
Hamilton	TBD	4.3%	3.8%	4.2%	4.1%
Municipal Average[2]	TBD	2.6%	2.6%	2.6%	2.6%
Municipal Benchmarking Network Canada (MBNC) – Prior Year's Tax Arrears as a % of Current Year Levy					
Hamilton	TBD	3.1%	3.5%	3.2%	3.3%
Municipal Average[2]	TBD	1.8%	2.0%	1.5%	1.2%

Total Arrears[1] is inclusive of current and prior years, penalty and interest charges and charges added to the tax roll (i.e. water arrears, property standards charges, etc.).
Municipal Average[2] of comparator municipalities across Canada

As identified in Table 1, 2017 saw a significant decrease in total arrears from the previous year, primarily due to significant payment of arrears received for three large industrial properties. These three large industrial properties had combined arrears of $20.8 million as of December 31, 2016, significantly reduced to $7.1 million as of December 31, 2017.

The percentage of Total Arrears to Current Taxes Levied also improved in 2017 (6.55% compared to 7.96% in 2016) due in part to both a decrease in total arrears and a significantly lower increase in current taxes levied.

When looking at the results of the Municipal Benchmarking Network Canada (MBNC), Hamilton continues to be well above the average of the comparator municipalities. It should be noted that MBNC splits out tax arrears between current year and prior year tax arrears. MBNC also does not take into account penalty and interest charges added to the tax roll account as part of the arrears calculation, which, on average, can equate to an additional 1%.

<u>Breakdown of Tax Receivable by Property Class</u>

The following, Table 2, provides a breakdown of annual tax receivable by major property class and the respective share to the overall total taxes receivable. The second portion of Table 2 identifies the number of properties with balances owing at the end of the year by major property class and the respective share to the overall total number of properties with a balance owing at yearend.

Table 2

5 Year Analysis of Tax Receivable by Major Property Class

	12/31/2017	**12/31/2016**	**12/31/2015**	**12/31/2014**	**12/31/2013**
Tax Receivable[3]	**$79,954,701**	**$89,282,439**	**$91,059,641**	**$86,800,951**	**$80,804,462**
Vacant Land	$2,580,918 3.23%	$2,331,508 2.61%	$2,198,808 2.41%	$2,446,105 2.82%	$2,062,300 2.55%
Farm/Managed Forest	$1,931,372 2.42%	$2,228,680 2.50%	$2,050,572 2.25%	$2,075,802 2.39%	$1,936,389 2.40%
Residential	$48,675,560 60.88%	$45,664,994 51.15%	$49,830,344 54.72%	$50,808,433 58.53%	$50,327,794 62.28%
Commercial	$14,458,260 18.08%	$14,085,536 15.78%	$14,341,232 15.75%	$9,945,973 11.46%	$10,410,405 12.88%
Industrial	$12,143,278 15.19%	$24,951,991 27.95%	$22,621,460 24.84%	$19,668,087 22.66%	$15,015,276 18.58%
Other	$165,313 0.21%	$19,732 0.02%	$17,225 0.02%	$1,856,550 2.14%	$1,052,298 1.30%
<u># of Properties</u>	**17,582**	**16,239**	**16,505**	**15,926**	**16,273**
Vacant Land	645 3.67%	528 3.25%	661 4.0%	568 3.57%	674 4.14%
Farm/Managed Forest	382 2.17%	403 2.48%	411 2.49%	386 2.42%	406 2.49%
Residential	15,395 87.56%	14,162 87.21%	14,373 87.08%	13,829 86.84%	14,073 86.48%
Commercial	825 4.69%	839 5.17%	784 4.75%	736 4.62%	733 4.50%
Industrial	329 1.87%	305 1.88%	274 1.66%	339 2.13%	345 2.12%
Other	6 0.03%	2 0.01%	2 0.01%	52 0.33%	42 0.26%

Tax Receivable[3] is inclusive of supplementary/omitted billings levied but not yet due and exclusive of credit balances.

Although the number of properties in arrears by property class is fairly consistent year to year, the reduction in overall taxes receivable is primarily as a result of the industrial property class. As shown in Table 2, while the 2017 taxes receivable has significantly dropped when compared to the previous years, the actual number of properties with an amount owing at yearend has increased.

Penalty and Interest Analysis

Table 3 identifies the penalty and interest charges applied to tax roll accounts for amounts not paid by the due dates. In adherence to By-law 13-136 “A By-law to Set Penalty and Interest Rates”, taxpayers are charged 1.25% per month (15% per year) for any taxes that are past due. This is the maximum allowable under the Municipal Act, and is consistent with what other Ontario municipalities charge. The high interest rate does act as a deterrent for taxpayers paying late or accumulating arrears, however, some taxpayers will continue to pay late or allow the arrears to grow.

As identified in Table 3 below, over the last five years, penalty and interest revenue has averaged approximately $11.6 million per year. Approximately $2.5 million of the 2016 total penalty and interest revenue was attributed to three large industrial properties that were in arrears. The significant reduction in penalty and interest revenue in 2017 is due primarily to the settling of some of the arrears for these large industrial properties.

Table 3

5 Year Analysis of Penalty and Interest Charges

	12/31/2017	**12/31/2016**	**12/31/2015**	**12/31/2014**	**12/31/2013***
P&I charges added to the Tax Roll	$11,368,557	$12,534,763	$11,904,628	$11,748,414	$10,477,042
Increase/(Decrease) over Previous Year	($1,166,206)	$630,135	$156,214	$1,271,372	$1,260,913
% Increase/(Decrease) over Previous Year	(9.30%)	5.29%	1.33%	12.13%	13.68%

*rate increased from 1% per month to 1.25% per month as of July, 2013

Even with the reduction in arrears experienced in 2017, significant revenue continues to be generated through penalties and interest charges for late payments. This is a cost borne exclusively by taxpayers who choose to pay late. The City’s collections effort ultimately has an impact on this revenue. The more aggressive the City’s collections efforts are, the less penalty and interest revenue.

Tax Collection Efforts

There are a number of steps taken to ensure the City's taxes receivable are ultimately collected and protected:

- Arrears are indicated on both tax billings (Interim tax bill mailed out in early February, and Final tax bill mailed out in early June).

- Setting the penalty and interest rate at the maximum allowable under the Municipal Act (1.25% per month / 15% per year) – this rate is identified on all tax bills and remainder notices, so taxpayers are aware of the cost of falling into arrears.

- Starting in 2015, the City now issues four reminder notices per year (in March, May, July and October, being the months following each instalment due date) versus the two reminder notices mailed out previously. The additional reminder notices does have some positive effect in collections, as well as, 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 a bill from previous owner, misapplied payment to another tax roll account, etc).

- Letters mailed out to new owners of properties advising of any arrears and of upcoming instalments due. When property ownership changes, Tax staff send letters to the new owners when there is no upcoming billing or reminder notice. This avoids new owners falling into arrears where their lawyer failed to settle any arrears on closing or where new owners were not made aware of upcoming instalments.

- An annual letter is sent to all properties in 3+ years in arrears, advising the taxpayer a lien will be registered should the arrears not be dealt with. Taxpayers are made aware that should a lien be registered, that any interested parties registered on title, such as a mortgage company, will be notified of these arrears.

- For taxpayers who ignore the three years in arrears letters, liens get registered on title and notices are sent to anyone on title including mortgage holders. The approved user fee to cover the City's costs for the registration of delinquent accounts is also added to the tax roll account. Tax staff monitor all properties in 3+ years in arrears, registering liens in order of largest arrears.

- On average, the City runs two tax sales per year. This is the last step in the collection of tax arrears. For the most part, arrears are settled before the tax sale by either the property owner or their mortgage company. For properties that do go to tax sale, the arrears are generally paid by the successful bidder.

Table 4 identifies the number of reminder notices mailed out in March, May, July and October, as well as, the number of properties in arrears as of yearend.

Table 4

5 Year Analysis of Reminder Notices issued

	2017	2016	2015	2014	2013
# of March Reminders	19,859	18,660	20,016	N/A	N/A
# of May Reminders	22,723	22,380	21,371	21,674	22,336
# of July Reminders	21,125	20,630	19,929	N/A	N/A
# of Oct Reminders	24,544	23,579	23,176	24,509	24,285
# of Properties Billed	175,961	174,634	172,841	170,928	169,588
# of Properties in Arrears at year-End	17,582	16,239	16,505	15,926	16,273
% of Properties in Arrears	9.99%	9.30%	9.55%	9.32%	9.60%

As Table 4 above illustrates, although the additional reminder notices have not yet resulted in less properties in arrears, they do assist greatly in resolving issues sooner rather than later, for such things as a missed payment, a misapplied payment, misplaced or lost tax bills, etc. There is typically an increase in reminder notices mailed out in May and October, due to taxpayers forgetting the second instalment of their interim or final tax bill. A newspaper ad is also published in the Hamilton Spectator to remind taxpayers of the upcoming instalment due date. Regardless of this collection effort, some taxpayers will continue to misplace or lose their tax bills, sell/purchase property and pay on their previous roll number in error, or simply ignore the reminder notices.

By year end, the number of taxpayers in arrears does drop off significantly. By the end of the year, approximately 10% of the total number of properties billed have not paid their taxes in full. This percentage has remained relatively steady, with a slight increase in 2017.

Tax Registration

Table 5 breaks down the number of properties, on a yearly basis, that are three years in arrears. The annual 3+ years in arrears letters (typically mailed out mid to late January), elicit a number of responses ranging from promises to pay, payment arrangements, payment of the minimum amount required to discharge the lien (third year in arrears only) and payment in full. Unfortunately, some taxpayers simply ignore the City's letter.

Taxation staff sorts and monitors these arrears into different categories (i.e. properties with payment arrangements, properties that will pay in full, properties that can only settle the third year, properties that have not contacted the City, etc.). Staff then begin to register liens on those who have ignored their arrears, starting with the largest arrears. Staff also monitor arrears of taxpayers who have made promises and move them into the registration process, if those promises are not kept. It has been the practice of Tax staff to show compassion for taxpayers in financial difficulty and will work with the taxpayer to allow them some time, within reason, to sort out their financial affairs.

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, Taxation staff must send notices within 60 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 is added to the tax roll account, as per the annual Council approved user fee by-law.

If the tax arrears are not addressed on receiving the Notice of Registration, then Final Notices must be sent after 280 days of registering a lien and a tax sale cannot take place before one year (365 days) has passed since the registration of the lien.

Table 5 identifies 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

	2017	2016	2015	2014	2013
3-years in Arrears letters	1,288	1,284	1,408	1,604	1,446
Increase / (Decrease) over Prior Year	4	(124)	(196)	158	(394)
Properties Registered with Tax Lien	310	400	500	500	500
% Registered Per Year	24.06%	31.15%	35.51%	31.17%	34.58%

The number of properties falling behind on their taxes, three or more years, continues to be a concern, as does the number of tax liens the City places on properties and the number of properties that eventually go to tax 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 staff typically register approximately 500 liens per year. The lower number of liens registered in 2017 is primarily due to staff vacancies. These vacancies are expected to be filled by the end of the first quarter of 2018.

Note that effective 2017, the Municipal Act has been amended to now allow the registration of liens for properties in two years arrears. Doing so would increase the number of properties that could potentially be registered by over 2.5 times. For now, staff will continue to register at three years in arrears until the impacts of moving to two years can be determined. As the City is protected via the priority lien status and ultimately has collected 99.9% of the taxes levied, any proposed change to the status quo would need to balance the expected resulting reduction in total tax arrears with the added costs for additional staff resources required, potential loss of penalty and interest revenue and impacts to taxpayers in financial difficulty.

<u>Tax Sale of Properties</u>

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 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 the tax roll, as well as Federal and/or Provincial liens. The City also runs 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 (no acceptable bids are received) 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 (no acceptable bids are received) and the City then vests the property. City Real Estate staff would then attempt to sell the properties vested, at which time a report goes to Council to write-off any difference between what it sold for and the taxes owing.

Table 6 confirms that most arrears are generally settled, with relatively very few properties actually going to tax sale.

Table 6

5 Year Analysis of Tax Sales

	2017	2016	2015	2014	2013
Letters sent advising of impending tax sale	42	85	121	62	72
Properties Advertised for tax sale	8	25	28	32	20
% to Tax Sale	19.05%	29.41%	23.14%	54.84%	27.78%
Rectified by Taxpayer	5	18	19	22	14
% Rectified	62.50%	72.00%	67.86%	64.70%	70.00%
Sold at Tax Sale	3	6	4	7	4
% Sold at Tax Sale	37.50%	24.00%	14.29%	21.87%	20.00%
No Bids Received	0	1	5	3	2
% with No Bids	0.00%	3.84%	17.85%	14.70%	10.00%
Sold at a later date by Real Estate	0	0	2	1	1

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

	2017	2016	2015	2014	2013
Write-Offs Approved by Council	$202,828*	$397,842	$7,928	$2,015	$164,062
Current Taxes Levied Plus Additions to Tax Roll	$1,049,614,426	$1,039,473,707	$1,011,641,806	$965,362,097	$945,963,819
% of Taxes Levied – Collected	99.98%	99.96%	99.99%	99.99%	99.98%

*property vested to City after failed tax sale – staff report to go in 2018

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

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