



Hamilton

INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	April 17, 2019
SUBJECT/REPORT NO:	Annual Tax Arrears as of December 31, 2018 (FCS19031) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

INFORMATION

Property taxation is the main source of revenue for Municipalities to fund their operations. As such, the City of Hamilton must ensure that this primary source of revenue is protected and monitored closely. This Information Report focusses on the level of annual property tax arrears over the last five years, up to and including December 31, 2018. This Report also identifies the steps taken by Taxation staff to ensure the protection and collection of these arrears, while adhering to requirements under the *Municipal Act, 2001*.

While the information in this report illustrates rather large property 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, in the event of a 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.

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Table 1 is an analysis of the tax arrears from 2014 to 2018.

Table 1

5 Year Analysis of Tax Arrears

	12/31/2018	12/31/2017	12/31/2016	12/31/2015	12/31/2014
Total Arrears ¹	\$73,737,453	\$68,792,042	\$82,770,634	\$81,008,372	\$83,100,003
Increase/(Decrease) Over Previous Year	\$4,945,411	(\$13,978,592)	\$1,762,262	(\$2,091,631)	\$4,689,280
Percentage Increase/(Decrease)	7.19%	(16.89%)	2.18%	(2.51%)	5.98%
Current Taxes Levied ² Plus Additions to Tax Roll	\$1,077,755,612	\$1,049,614,426	\$1,039,473,707	\$1,011,641,806	\$975,197,854
Increase/(Decrease) Over Previous Year	\$28,141,186	\$10,140,719	\$27,831,901	\$36,443,952	\$26,513,409
Percentage Increase/(Decrease)	2.68%	0.98%	2.75%	3.74%	2.79%
% of Total Arrears to Current Taxes Levied	6.84%	6.55%	7.96%	8.01%	8.52%
Municipal Benchmarking Network Canada (MBNC) – Current Year's Tax Arrears as a % of Current Year Levy					
Hamilton	TBD	3.9%	4.3%	3.8%	4.2%
Municipal Average ³	TBD	2.5%	2.6%	2.6%	2.6%
Municipal Benchmarking Network Canada (MBNC) – Prior Year's Tax Arrears as a % of Current Year Levy					
Hamilton	TBD	2.4%	3.1%	3.5%	3.2%
Municipal Average ³	TBD	1.7%	1.8%	2.0%	1.5%

Total Arrears¹ 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.). Exclusive of supplementary/omitted billings levied but not due as of December 31st of each respective year.

Current Taxes Levied² is exclusive of supplementary/omitted billings levied but not due as of December 31st of each respective year.

Municipal Average³ of comparator Municipalities across Canada

As identified in the Table 1, 2018 saw an increase in total arrears compared to 2017, yet the level of arrears as of December 31, 2018 is still lower than that of years 2014 to 2016. The reduction in arrears experienced in 2017 was primarily due to substantial payment of arrears received for three large industrial properties.

The percentage of Total Arrears to Current Taxes Levied also increased in 2018 (6.84% compared to 6.55% in 2017), however it remains lower than the percentage experienced in years 2014 to 2016. This is largely due in part to the fact that the total arrears, except for 2017, have declined, while the taxes levied, as well as charges added to the tax roll, continues to increase.

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It should be noted that the total arrears is not simply for the property taxes levied each year, but also includes penalty and interest charges, as well as other charges added to the tax roll (i.e. water arrears charges, property standards charges, development charges, POA charges, etc.). Where allowable under the *Municipal Act*, charges are added to the tax roll and collected in the same manner as property taxes. This is an efficient and effective method of collecting non-property tax arrears.

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 consider 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%.

Breakdown of Tax Receivable by Property Class

Table 2 provides a breakdown of the annual Taxes 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 year end.

Table 2

5 Year Analysis of Tax Receivable by Major Property Class

	12/31/2018	12/31/2017	12/31/2016	12/31/2015	12/31/2014
Taxes Receivable ³	\$83,598,660	\$79,954,701	\$89,282,439	\$91,059,641	\$86,800,951
Vacant Land	\$2,944,401 3.52%	\$2,580,918 3.23%	2,331,508 2.61%	2,198,808 2.41%	2,446,105 2.82%
Farm/Managed Forest	\$1,590,046 1.90%	\$1,931,372 2.42%	2,228,680 2.50%	2,050,572 2.25%	2,075,802 2.39%
Residential	\$50,275,034 60.14%	\$48,675,560 60.88%	45,664,994 51.15%	49,830,344 54.72%	50,808,433 58.53%
Commercial	\$16,311,790 19.51%	\$14,458,260 18.08%	\$14,085,536 15.78%	\$14,341,232 15.75%	\$9,945,973 11.46%
Industrial	\$12,435,451 14.88%	\$12,143,278 15.19%	\$24,951,991 27.95%	\$22,621,460 24.84%	\$19,668,087 22.66%
Other	\$41,939 0.05%	\$165,313 0.21%	\$19,732 0.02%	\$17,225 0.02%	\$1,856,550 2.14%
# of Properties	19,288	17,582	16,239	16,505	15,926
Vacant Land	565 2.93%	645 3.67%	528 3.25%	661 4.0%	568 3.57%
Farm/Managed Forest	392 2.03%	382 2.17%	403 2.48%	411 2.49%	386 2.42%
Residential	17,191 89.13%	15,395 87.56%	14,162 87.21%	14,373 87.08%	13,829 86.84%
Commercial	802 4.16%	825 4.69%	839 5.17%	784 4.75%	736 4.62%
Industrial	333 1.73%	329 1.87%	305 1.88%	274 1.66%	339 2.13%
Other	5 0.03%	6 0.03%	2 0.01%	2 0.01%	52 0.33%

Tax Receivable³ is inclusive of supplementary/omitted billings levied but not due as of December 31st of each respective year and exclusive of credit balances or balances under \$5 as of December 31st of each respective year.

As shown in Table 2 above, relatively speaking, the level of tax arrears by property class has remained stable, except for the increase experienced in the Commercial property class and decrease experienced in the Industrial property class.

With respect to the number of properties with an amount owing at yearend, this figure continues to rise. This is primarily driven by the Residential property class; however, the Residential property class has also experienced the largest amount of growth. Although the number of Residential properties in arrears has increased by approximately 3,400 (17,191 in 2018 compared to 13,829 in 2014), the number of new residential properties over this same time (particularly single-family and condominiums) exceeds this amount.

Lastly, on a per unit basis, when comparing the Residential arrears to the number of Residential properties in arrears, the arrears have declined (\$2,924.50 in 2018 compared to \$3,674.05 in 2014).

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Penalty and Interest Analysis

Table 3 identifies the penalty and interest charges applied to the 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 property taxes and other charges added to the tax roll, that are past due. Penalty and interest charges are added the first of the month, for the full month. The penalty and interest rate charged is the maximum allowable under the Municipal Act and is consistent with what other Ontario Municipalities charge. The high interest rate acts as a deterrent for most taxpayers to avoid paying late or accumulating arrears, however, some taxpayers will continue to pay late or allow the arrears to grow, regardless of the penalty and interest charges incurred.

As identified in Table 3 below, over the last five years, penalty and interest revenue has averaged approximately \$11.8M per year, with 2016 being the highest year at \$12.5M in penalty and interest revenue. Approximately \$2.5M 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 was due primarily to the settling of some of the arrears for these large industrial properties. The combined 2018 arrears for these large industrial properties continued to fall compared to 2017, albeit not to the extent of the reduction experienced in 2017.

Table 3

5 Year Analysis of Penalty and Interest Charges

	12/31/2018	12/31/2017	12/31/2016	12/31/2015	12/31/2014
P&I charges added to the Tax Roll	\$11,290,901	\$11,368,557	\$12,534,763	\$11,904,628	\$11,748,414
Increase/(Decrease) over Previous Year	(\$77,656)	(\$1,166,206)	\$630,135	\$156,214	\$1,271,372
% Increase/(Decrease) over Previous Year	(0.68%)	(9.30%)	5.29%	1.33%	12.13%

Even with the reduction in penalty and interest revenue when compared to 2016, 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 collection efforts ultimately have an impact on this revenue. The more aggressive the City’s collection efforts are, the less revenue in penalty and interest. It should be noted that although the 2018 penalty and interest revenue declined slightly when compared to 2017, the second half of 2018 identified an upward trend.

Tax Collection Efforts

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

- 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 started issuing 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 do have some positive effect in collections, 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 tax 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, Taxation 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 in January 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 3+ 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,

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by either the property owner or their mortgage company. For properties that do go to tax sale, the arrears are paid by the proceeds of 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 year-end.

Table 4

5 Year Analysis of Reminder Notices issued

	2018	2017	2016	2015	2014
# of March Reminders	18,409	19,859	18,660	20,016	N/A
# of May Reminders	21,514	22,723	22,380	21,371	21,674
# of July Reminders	20,516	21,125	20,630	19,929	N/A
# of Oct Reminders	23,298	24,544	23,579	23,176	24,509
# of Properties billed ¹	177,258	175,961	174,634	172,841	170,928
# of Properties in Arrears at year-End	19,288	17,582	16,239	16,505	15,926
% of Properties in Arrears	10.88%	9.99%	9.30%	9.55%	9.32%

of Properties billed¹ in the June final property tax billing for each respective taxation year.

As Table 4 illustrates above, although the additional reminder notices have not 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. The number of reminder notices issued are consistent year over year. 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 local paper 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.

Although the number of properties in arrears increased in 2018, the number of reminder notices mailed out in 2018 has declined when compared to 2017. This is simply due to a change in how reminder notices are issued in conjunction with the application of the Council approved user fee. Effective 2018, reminder notices are mailed out to all arrears over \$50. The user fee is applied to all remainder notices issued. Previously, reminder notices were mailed out to all arrears over \$5, yet the user fee for mailing the reminder notice was only charged to arrears over \$900.

By the end of 2018, approximately 11% of the total number of properties billed had not paid their taxes in full. This percentage is slightly higher than the approximate 10% experienced in prior years.

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Tax Registration

Table 5 breaks down the number of properties, on a yearly basis, that are in arrears three years or more. The annual 3+ years in arrears letters (typically mailed out mid to late January), elicit several responses ranging from promises to pay, payment arrangements, payment of the minimum amount required to discharge the lien (third year in arrears) 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 properties 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 Taxation 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. The full costs of this process are added to the tax roll account, as per the annual Council approved user fee by-law. In many cases, Mortgage companies will act to protect their interest and work with the taxpayer on the arrears or use their Power of Sale legislation.

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. 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 registered.

Table 5

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

	2018	2017	2016	2015	2014
3+ years in Arrears letters	1,203	1,288	1,284	1,408	1,604
Increase / (Decrease) over Prior Year	85	4	(124)	(196)	158
Properties Registered with Tax Lien	360	310	400	500	500
% Registered per Year	29.9%	24.1%	31.2%	35.5%	31.2%

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 must get involved, either re-financing the property or going to power of sale. Taxation staff typically register approximately 300 to 500 liens per year. The lower number of liens registered in 2017 is primarily due to staff vacancies. These vacancies were filled by the end of the second quarter of 2018, resulting in an increase in 2018 registrations when compared to 2017.

Note that effective 2017, the *Municipal Act* was being amended to allow the registration of liens for properties in 2+ years arrears. Doing so would increase the number of properties that could potentially be registered by over 2.5 times. For now, Taxation 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 property 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.

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, several 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 settling the arrears themselves. For many of the properties that go to sale, properties may also have large property standard charges and/or water arrears added to the tax roll, as well as Federal and/or Provincial liens. The City must also deal with estate issues where no will exists. A further issue is where slivers of properties have been created and have been over-valued, and where the only means to rectify the problem is through the tax sale process.

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Of the properties that end up going through to the final bidding process of a tax sale, there are three potential results:

1. They sell for at least the minimum bid (taxes owing including all charges and fees added to the tax roll) and the City recovers all that is owed.
2. They do not sell (no acceptable bids are received) and the property is not vested to the City due to liability concerns. These properties are then dealt with by the City's process for potentially contaminated properties or re-evaluate by the 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 property is vested to the City. 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 going to tax sale.

Table 6

5 Year Analysis of Tax Sales

	2018	2017	2016	2015	2014
Letters sent advising of impending tax sale	37	42	85	121	62
Properties advertised for tax sale	18	8	25	28	32
% to Tax Sale	48.6%	19.0%	29.4%	23.1%	51.6%
Rectified by Taxpayer	14	5	18	19	22
%Rectified	77.8%	62.5%	72.0%	67.9%	68.8%
Sold at Tax Sale	4	3	6	4	7
% Sold at Tax Sale	22.2%	37.5%	24.0%	14.3%	21.9%
No Bids Received	0	0	1	5	3
% with No Bids	0.0%	0.0%	4.0%	17.9%	9.4%
Sold at a later date by Real Estate	0	0	0	2	1

As shown above, most arrears are rectified by the taxpayer even after the property is advertised for Tax Sale.

Tax Write-Offs

Section 354 of the *Municipal Act*, allows a Municipality to write-off property taxes if deemed uncollectable after an unsuccessful tax sale, or if no tax sale was conducted, deemed uncollectable due to the property being owned by the Federal, Provincial or Municipal government. 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**

	2018	2017	2016	2015	2014
Write-Offs Approved by Council	\$6,145.01	\$202,828*	\$397,842	\$7,928	\$2,015
Current Taxes Levied Plus Additions to Tax Roll	\$1,077,755,612	\$1,049,614,426	\$1,039,473,707	\$1,011,641,806	\$965,362,097
% of Taxes Levied – Collected	99.99%	99.98%	99.96%	99.99%	99.99%

*property vested to City after failed tax sale – write-off report awaiting recommended action to be taken (i.e. possible sale of property by Real Estate)

As Table 7 illustrates the City will eventually collect, on average, 99.9% of the taxes levied.

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