



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	March 26, 2020
<b>SUBJECT/REPORT NO:</b>	Backlog in Processing Apportionment of Land Taxes (FCS20026) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Maria Di Santo (905) 546-2424 Ext. 5254
<b>SUBMITTED BY:</b>	Rick Male Director, Financial Services and Taxation & Corporate Controller Corporate Services Department
<b>SIGNATURE:</b>	

## INFORMATION

Where a parcel of land has been severed into individual lots, Section 356 of the *Municipal Act, (2001)* allows for the apportionment of unpaid property taxes. Apportioning property taxes allows the Municipality to collect unpaid property taxes equitably amongst the newly created lots.

With on-going residential development, this is a task Taxation staff completes periodically throughout the year, as information is received from the Municipal Property Assessment Corporation (MPAC). This ensures that affected property owners receive the apportionment for the land taxes within a reasonable time. Apportionments for land taxes completed the year following the sale are typical and should be expected, as MPAC needs time to collect all relevant information pertaining to the severance and subsequent development.

Taxation staff require a Severance/ Consolidation Information Form ("SCIF") from MPAC in order to apportion land taxes appropriately. The SCIF splits the assessment of the larger parcel of land into the newly created lots, which is used to then apportion any unpaid property taxes.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Backlog in Processing Apportionment of Land Taxes (FCS200026)  
(City Wide) - Page 2 of 4**

---

Due to an unexpected prolonged staff vacancy, there is a backlog in the number of SCIFs to be reviewed. While this backlog is being addressed, there will be apportionments of land taxes completed in 2020 that pertain to sales in 2018 or prior. As such, special consideration will be given to taxpayers affected. This special consideration is in adherence to section 9 of the Council approved Tax Collection Policy (FCS15068), which specifically states:

***Special Payment Arrangements / Deferrals***

*Under the current Municipal Act, a Treasurer can only write-off taxes upon a failed tax sale or successful assessment appeal. Where special circumstances exist, the Treasurer can authorize the deferral of tax arrears and the freezing of penalty and interest charges where it is not in the City's best interest to proceed with a tax sale. This option would also be considered where in extreme cases it is in the best interest of all parties. Examples of such situations would be a private mortgage holder taking over a property significantly in arrears and disrepair, new owners assuming a brownfield property offering to remediate and clean-up of dilapidated properties, etc.*

For any apportionments completed in 2020 that pertain to sales which occurred in 2018 or prior, staff will freeze the penalty and interest charges related to the apportioned land taxes, for a period of up to 6 months, thereby allowing affected taxpayers additional time to settle the outstanding taxes. Current taxes levied would continue to be subject to regular penalty and interest charges if not paid by the due date, in accordance with By-law 13-136 "A By-law to Set Penalty and Interest Rates". For significant apportionment amounts in excess of \$1,500, additional consideration may be granted, should the taxpayer agree to enrol in pre-authorized payments.

In order to process the current backlog more efficiently, a tracking system has been put in place to record all SCIFs received from MPAC. Moving forward, this tracking system will also assist in ensuring staff identify, review and complete the apportionment, if required, within 6 months of receipt of any new SCIFs, and ideally no later than the year following the sale, where feasible. A temporary position will also be posted to assist in addressing the backlog. It is expected this backlog will be addressed by the end of 2020. Once the backlog is addressed, with some minor reallocation of duties, it is expected that the existing complement would be sufficient to ensure apportionments are completed in a timely manner moving forward. Meeting dates have been set up every other month for the remainder of 2020 to approve the apportionments and allow affected taxpayers the opportunity to discuss the apportionment with staff. Section 356 of the Municipal Act requires that written notice be given to the taxpayer once the apportionment has been processed, should they wish to appeal the apportionment to the Assessment Review Board. In adherence to the Municipal Act, taxpayers can only appeal the tax apportionment calculation.

**SUBJECT: Backlog in Processing Apportionment of Land Taxes (FCS200026)  
(City Wide) - Page 3 of 4**

---

The amount of land taxes apportioned to each purchaser varies from development to development. The SCIF provided by MPAC, which is the basis for an apportionment, takes the assessment value of the original parcel of land and redistributes the value amongst the newly created individual lots. The apportioned assessment value for a newly created lot may range from an estimated 30,000 to 100,000. This would equate to annual property taxes pertaining to land being apportioned of approximately \$380 to \$1,300 per lot /unit (using 2018 City of Hamilton urban Residential tax rates). If the Builder paid a portion of the land taxes, this payment would be apportioned to each lot/unit, thereby reducing the outstanding amount due.

Not all apportionments are the same, nor do all SCIFs translate into a required apportionment. With any new development, it is common that there is a delay in billing the full property taxes, and that there would be a period in which property taxes pertaining to the land and structure are being billed separately. The following provides for common scenarios for property taxes pertaining to the land.

- Property Taxes in the year of sale:
  - Builder pays the total property taxes. The Builder then adjusts for the property taxes on closing with each respective purchaser. No apportionment is required.
  - Builder does not pay the total annual property taxes (or only a portion of the annual property taxes). An apportionment is required in order to collect the unpaid property taxes. As the City of Hamilton (City) is not privy to how property taxes were adjusted on closing with each respective purchaser, once the apportionment is completed, purchasers are instructed to go back to their lawyer to readjust for property taxes, if required.
- Property Taxes in the year following the sale:
  - Due to MPAC's cut-off for the annual returned roll, an apportionment would also be required if the roll returned does not yet reflect the individual lots. Typically, this would occur for sales that transpired in the last quarter of the year.
- In the case of subsequent resales, the current owner would be responsible for the full outstanding apportioned taxes, regardless of what year the apportioned land taxes pertain to. There are no time limitations for apportioning unpaid land taxes. The new owner would then need to go back to their lawyer to readjust for property taxes or make a claim through title insurance (if purchased). If a claim

**SUBJECT: Backlog in Processing Apportionment of Land Taxes (FCS200026)  
(City Wide) - Page 4 of 4**

---

is made through title insurance, the insurance company would then attempt to collect from the previous owner.

- If one of the newly created lots is assigned the roll number for the original block of land, an apportionment is required to ensure that any property tax arrears for the original block of land is not unfairly assumed by one of the purchasers.

Although the above scenarios are common outcomes of a parcel of land being split into two or more parcels, delays in processing apportionments may add to taxpayer frustration and may possibly make it more difficult in readjusting for property taxes with the Builder or previous owner, if required. Where the City may have contributed in the delay of apportioning land taxes in excess of a reasonable timeframe, special consideration will be granted. While addressing the backlog throughout 2020, staff will therefore utilize the authority granted through the Council approved Tax Collection Policy to provide for such consideration.

**APPENDICES AND SCHEDULES ATTACHED**

N/A

MD/rw/dw