GM21.4

TORONTO

REPORT FOR ACTION

Write-off of Uncollectible Property Taxes from the Tax Roll

Date: May 12, 2017
To: Government Management Committee
From: Treasurer
Wards: All

SUMMARY

This report recommends the write-off of property taxes for 713 receivable amounts relating to 229 individual property tax accounts for the taxation years 1989 to 2016. These property tax accounts are no longer returned on the assessment roll, making collection efforts and recovery of outstanding amounts impossible. The total estimated amount to be written off is $5,816,231. All reasonable and appropriate collection efforts have been exhausted. It is recommended that the property taxes, interest and fees that have accumulated over the period 1989 to 2016 be deemed uncollectible and written off. The write-off of these amounts will have no impact on the current year's budget, as these amounts have been provided for in the Allowance for Doubtful Tax Receivables Account in prior years.

RECOMMENDATIONS

The Treasurer recommends that:

1. Council deem the unpaid property taxes levied in all years (including interest and penalties which have accrued on those unpaid taxes up to the time of write-off) on the 713 receivables listed in Attachment 1, as uncollectible and direct the Treasurer to remove these amounts from the tax roll.

FINANCIAL IMPACT

The total estimated amount to be written off with the adoption of the recommendations contained in this report is $5,816,231, consisting of a municipal portion of levied taxes of $1,108,084, a provincial education portion of $967,554, business improvement area levies of $1,242.36 and an additional $3,739,350 in penalty/interest charges as at May 1, 2017. The total write-off amount of $5.8 million represents a very small percentage (less than 1/100 of one per cent) of the total amount of taxes billed (over $80 billion) over the period 1998 to 2016. In general, the City annually collects 97% of all taxes in the year billed, with a long-term collection success rate of over 99.9 per cent.

The penalty/interest portion of the total write off amount is considered to be an estimate. Since interest accrues on tax accounts on a monthly basis, the amount of interest/penalty to be written off will continue to increase until the date the actual write-off is approved and processed. The write-off of these amounts will have no impact on the current year's budget, as these amounts have been provided for in the Non-Program Allowance for Doubtful Tax Receivables Account in prior years

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on October 3, 4 and 5, 2000 and its Special Meeting on October 6, 10, 11 and 12, 2000, Council adopted a report entitled "Public Disclosure and Tax Arrears Information and Strategy for Aggressive Collection Procedures" which recommended the adoption of a comprehensive collection process for commercial, industrial and multi-residential properties. To view this report online please follow the link below:
http://www.toronto.ca/legdocs/2000/agendas/council/cc/cc001003/adm19rpt/cl002.pdf

At its meeting held on April 23 and 24 2007, City Council adopted item GM3.19: "Write-off of Unpaid Property Taxes for Apportionment Applications Related to 2002 and Prior Years" which recommended that the Director of Revenue Services be authorized to withdraw 116 apportionment applications previously filed to the ARB and that the unpaid taxes, totalling $1.0 million, be written off as uncollectible and removed from the tax rolls. To view this report online please follow the link below:
http://www.toronto.ca/legdocs/mmis/2007/gm/reports/2007-04-12-gm03-cr.pdf

At its meeting held on November 3 and 4, 2015 City Council approved adjustments to uncollectible payments in lieu of taxes for taxation years 1998-2014 inclusive totalling approximately $34.1 million. Adjustments were also approved in the amount of $3.4 million for uncollectible property tax amounts billed to tenants of federally owned properties. To view this report online please follow the link below:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.GM7.1

COMMENTS

The Revenue Services Division uses internal collection actions, external bailiffs and ultimately the municipal tax sale process to collect on unpaid property taxes. Property Tax Account Statements/overdue notices are mailed to property owners in arrears advising of their overdue property taxes. These overdue notices are issued at the beginning of each year and at the first and third installment due dates of the interim and final property tax bills. Revenue Collectors also contact owners by telephone and/or by way of a letter to facilitate suitable payment arrangements. Final Notices are issued to property owners with arrears from the previous year in or around April of each year for residential properties and November for non-residential properties, per Council's previously approved procedures.

A Final Notice advises the property owner that failure to pay arrears will result in their account being transferred to the bailiff for collection. It allows the property owner one last opportunity to make full payment or to make suitable payment arrangements within 21 days of the issuance of the final notice.

Internal collection efforts are deemed exhausted when there has been no response to a Final Notice and where the property owner cannot be reached, and where no suitable payment arrangements have been made. These accounts are then transferred to an external bailiff company to attempt to collect the unpaid taxes on behalf of the City. A Notice of Issuance to Bailiff is issued to the property owner indicating that their outstanding tax arrears have been issued to an external bailiff company. It advises that any further payments on the outstanding amounts must be made to the bailiff directly.

In accordance with the provisions as set out in the *City of Toronto Act, 2006*, the City will commence tax sale proceedings on properties with unpaid taxes once all collection efforts have been exhausted by both city staff and the bailiff. In circumstances where tax sale proceedings are ineffective or inappropriate, the *City of Toronto Act, 2006* provides a mechanism to write-off unpaid taxes. Prior to 2006, the *Municipal Act, 2001* stipulated that the City could only write-off taxes as uncollectible after an unsuccessful tax sale had been held.

Under the *City of Toronto Act, 2006,* Section 319(4)(b) allows taxes to be written off as uncollectible *"if the recommendation of the treasurer provides written explanation of why conducting a tax sale would be ineffective or inappropriate."* Conducting tax sales on the properties listed in Attachment 1 is not appropriate since the unpaid taxes in all cases relate to tax accounts/properties that no longer exist. The tax sale process can only be pursued if the taxes remain unpaid after they are apportioned to a current property tax account/roll number. The process of redistributing outstanding property taxes from one parcel of land to many newly created properties following a severance or re-development of land is referred to as "the apportionment of taxes".

Revenue Staff have conducted a review of properties with outstanding taxes that are no longer returned on the assessment roll. As a result of the review, staff have initiated the apportionment process for several properties as a method to recover the unpaid taxes. Where taxes are apportioned to properties that are still returned on the assessment roll, normal collection processes will continue to apply. However, the properties listed in Attachment 1 represent those properties where all reasonable and appropriate collection efforts have been exhausted and where an apportionment would not be an appropriate method to recover the unpaid taxes.

These properties have been grouped into categories, each of which provide details as to why conducting an apportionment would not be feasible and consequently a tax sale would be ineffective and inappropriate. A property may have multiple tax years in arrears. An outstanding receivable balance from each tax year is considered a separate receivable. In Attachment 1, there are 713 receivables from 229 individual properties to be written off, each of which are categorized into one of the following groups:

(a) Properties returned on the assessment roll in error. There are no appeal or legislative mechanisms available to correct the error. An example of this is a duplicate assessment that has not been removed from the assessment roll in a timely manner. Apportioning these amounts would essentially result in double taxation of a parcel of land. There are 299 receivables from 78 properties in this category, totalling $949,828 to be written off. These receivables are displayed in Attachment 1, Table 1.

(b) The Municipal Property Assessment Corporation has advised the City that there is no information to determine the apportionment value of the newly created parcels, therefore there is no basis upon which to apportion the unpaid taxes. There are 123 receivables from 47 properties in this category totalling $963,724 to be written off. These receivables are displayed in Attachment 1, Table 2.

(c) The outstanding taxes, not including interest, are under $1,000. Given that these properties represent a relatively small amount, it would not be cost effective to pursue an apportionment for the unpaid taxes. There are 153 receivables from 88 properties totaling $24,467 in this category to be written off. These receivables are displayed in Attachment 1, Table 3.

(d) Business Occupancy Tax Accounts in arrears for the 1995 and 1996 tax years. Arrears are a result of a 2004 Assessment Review Board decision that increased the assessment and the associated business tax levy on tenants. Prior to the introduction of CVA in 1998, business owners or tenants were also levied a business occupancy tax as a fixed percentage of their total tax levy. This was eliminated in 1998 and rolled into the tax rates for the commercial and industrial property classes, and billed directly to property owners, rather than to the tenants. These accounts are no longer returned on the assessment roll and an apportionment would not be appropriate. There are 2 receivables from 1 property in this category totaling $164,443 to be written off. These receivables are displayed in Attachment 1, Table 4.

(e) Federal tenanted properties where taxable tenants vacated the premises and collection efforts have been exhausted. Normally unpaid taxes result in a tax sale, however federal bodies are exempt from property tax and the tax sale process. Therefore, pursuant to paragraph 319(4)(a) of the *City of Toronto Act, 2006* when unpaid taxes are deemed uncollectible, they may be written off without a tax sale if the property is federally owned. Federal tenanted properties cannot be apportioned. There are 136 receivables from 15 properties totaling $3,713,769 in this category to be written off. These receivables are displayed in Attachment 1, Table 5.

Under section 3.1 of the federal *Payments in Lieu of Taxes Act* (PILT Act) and section 8.1 of the PILT regulation, a federal body has the discretion to make a payment to a municipality for a federal tenant that did not pay their property taxes. The federal bodies listed in Attachment 1 have chosen not to exercise their discretion under the federal PILT Act and the regulation to make a PILT for the unpaid tenant property taxes.

The categories listed above give reason as to why an apportionment is not feasible, and why further collection efforts are considered extremely unlikely to be successful. The receivables associated with each category are organized into separate tables in Attachment 1. A tax sale for these accounts would not be effective since the accounts no longer exist. All reasonable and appropriate collection efforts have been exhausted. Accordingly, the Treasurer recommends that the property taxes, and accumulated penalty, interest and fees as shown in Attachment 1 be deemed uncollectible and written off.

CONTACT

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SIGNATURE

Mike St. Amant
Treasurer

ATTACHMENTS

Attachment 1: Listing of Tax Accounts to be Written-off