

Write-off of Uncollectible Property Taxes from the Tax Roll

Date: June 18, 2018
To: Government Management Committee
From: Treasurer
Wards: All

SUMMARY

This report recommends the write-off of property taxes for 198 receivable amounts relating to 98 individual property tax accounts for the taxation years 1988 to 2018. The receivable amounts relate to property tax accounts that 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 \$446,928. 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 1988 to 2018 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 previously provided for in the Allowance for Doubtful Tax Receivables Account in prior years.

RECOMMENDATIONS

The Treasurer recommends that:

1. City 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 198 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 \$446,928, consisting of a municipal portion of levied taxes of \$222,767, a provincial education portion of \$85,985, business improvement area levies of \$1 and an additional \$138,175 in penalty and interest charges as at June 7, 2018. The total write-off amount of \$446,928 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 1988 to 2018. 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 Interim 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 July 4, 5, 6 and 7, 2017 City Council adopted item GM21.4: "Write-off of Uncollectible Property Taxes from the Tax Roll" which recommended that City Council deem the unpaid property taxes of 713 receivables totalling approximately \$5.8 million as uncollectible and direct the Treasurer to remove these amounts from the tax roll.
<http://app.toronto.ca/tmmis/viewAgendItemHistory.do?item=2017.GM21.4>

COMMENTS

The Revenue Services Division uses internal collection procedures, 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 letter to attempt to secure suitable payment arrangements with property owners. Final Notices (prior to issuance to a bailiff) are issued to property owners where unpaid

amounts exist from the previous taxation year in or around April of each year for residential properties and in 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, including bailiff fees.

In accordance with the provisions set out in the *City of Toronto Act, 2006*, the City will commence tax sale proceedings on properties where three or more years of taxes remain unpaid, and where all collection efforts, by both city staff and the bailiff, have proven unsuccessful. 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.*" For the amounts recommended for write-off in Attachment 1 to this report, conducting tax sales on these properties is not appropriate since the unpaid taxes in all cases relate to tax accounts/properties that no longer exist on the assessment roll.

In certain circumstances where tax arrears remain on an account that is no longer returned on the assessment roll, the unpaid taxes can be apportioned amongst current tax accounts that formed part of the former parcel of land (e.g., the new parcels created following a severance or re-development of a property). In other cases, the apportionment of old arrears to new parcels is not possible, due to a lack of information concerning how the taxes should be apportioned, or to the passage of time, or other factors. In these cases, the tax sale process cannot be used to collect the taxes because the original parcel (against which the arrears are associated) no longer exists.

Revenue Services 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 unpaid 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.

The properties in Attachment 1 have been grouped into categories, identifying why the arrears are being recommended for write-off, and why conducting an apportionment would not be feasible, and consequently why a tax sale would be ineffective and inappropriate. Some properties have multiple tax years in arrears. An outstanding receivable balance from each tax year is considered a separate receivable. In Attachment 1, there are 198 receivables from 98 individual properties that are recommended for write-off, grouped within the following categories:

(a) Properties returned on the assessment roll in error. There are no appeal or legislative mechanisms available to correct these errors. 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 57 receivables from 20 properties in this category, totalling \$58,837 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 40 receivables from 5 properties in this category totalling \$15,897 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 52 receivables from 30 properties totaling \$2,393 in this category to be written off. These receivables are displayed in Attachment 1, Table 3.

(d) Business Occupancy Tax Accounts in arrears between the 1991 and 1998 tax years. Arrears in these cases have arisen as a result of Assessment Review Board decisions that retro-actively increased the assessment and the associated business tax levy on former tenant portions. Prior to the introduction of CVA in 1998, business owners or tenants were levied a business occupancy tax as a fixed percentage of their total tax levy. In 1998, the former business occupancy tax was eliminated and business taxes were rolled into the tax levy 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 41 receivables from 41 properties in this category totaling \$58,103 to be written off. These receivables are displayed in Attachment 1, Table 4.

(e) Arrears for Patricia Avenue (2015 Omitted taxes). As a result of insolvency proceedings concerning Urbancorp (Patricia) Inc. under the *Companies' Creditors Arrangement Act*, Court Orders prevented the City from collecting the omitted taxes through regular tax billing procedures. Due to the timing of the receipt of the Omitted Assessment notices, the City did not make a claim for the unpaid taxes before the Claims Bar Date under the Court-ordered process, and there is no further opportunity for the City to collect these omitted taxes. There are 4 receivables from 1 property in this category totaling \$220,317 that are recommended to be written off. These receivables are displayed in Attachment 1, Table 5.

(f) Arrears for 201 Carlaw Ave. The tax arrears for 201 Carlaw Ave stem from an Assessment Review Board decision rendered in 2014 that created additional taxes for the 2006 to 2009 taxation years against the developer of this condominium site. The Board's decisions were issued four years after the condominium had registered (January 2010), and the original developer (The Printing Factory Lofts Inc.) had no ownership interest in the building by mid-2011 having sold all the units to individual owners.

The City has made various attempts to collect the outstanding taxes from the developer, including launching an action in Superior Court against Printing Factory Lofts Inc. in 2016 to recover unpaid taxes. The City was granted a default judgment for the amount of the unpaid taxes (\$61,639.34) plus interest and penalties. The amounts remained unpaid. In 2017, the City also conducted a Notice of Examination of an officer of The Printing Factory Lofts Inc., also known as a judgement debtor exam. The judgement debtor exam revealed that The Printing Factory Lofts Inc. has no assets.

A staff report (Item GM23.1) in November 2017 recommended that the unpaid amounts be apportioned amongst the current unit owners, however, the Government Management Committee excluded the application for 201 Carlaw Ave from its approval. Given that the apportionment process was the last resort to collect the unpaid taxes, and that conducting a tax sale is not possible as the original parcel of land no longer exists, the only remaining option is to write-off the taxes. There are 4 receivables from 1 property in this category totaling \$91,381 to be written off. These receivables are displayed in Attachment 1, Table 6.

All of the amounts recommended for write-off in this report are those for which further collection efforts are considered extremely unlikely to be successful. Utilizing the tax sale process to recover tax arrears would also not be appropriate, given that the original accounts no longer exist. All reasonable and appropriate collection efforts have been exhausted. Accordingly, the Treasurer recommends that Council approve that the tax arrears be deemed uncollectible, and direct the Treasurer to write off the outstanding property taxes, and accumulated penalty, interest and fees amounts listed in Attachment 1.

CONTACT

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SIGNATURE

Mike St. Amant
Treasurer

ATTACHMENTS

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