

# Tax Registration/Sale – what is it, and why do it?

Presented for Arran-Elderslie Council Meeting

On February 27, 2023

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# This presentation is only an overview

When conducting, or considering conducting, a tax registration, please refer to the pertinent legislation and regulations.



# Definitions for the purposes of this presentation

## Tax sale

The set of procedures that are required in order to offer a property for sale in order to recover realty tax arrears

## Tax registration

The one-year long set of procedures that must be followed before you can commence tax sale procedures



# Legislation and Rules

## Legislation

Main legislation is the *Municipal Act, 2001, Part XI*

- Some sections outside of *Part XI* are involved
- Other Acts that may also be involved, such as
  - *Farm Debt Mediation Act,*
  - *Forfeited Corporate Property Act, 2015*

All section numbers in this presentation refer to the *Municipal Act, 2001*, unless otherwise noted

## Rules

*Municipal Tax Sales Rules ("Rules")*  
*O. Reg. 181/03 as amended by 571/17*



# Why do a tax registration?

## All collection efforts to date have failed

- This is the last resort

## Highly effective

- On 85% of the properties we've handled, the arrears were paid within 1 year—did not have to go to tax sale

## No cost to municipality (usually)

- Costs are charged back to the properties that are in arrears (371(1))
- When the taxes are recovered, your costs are recovered



# Why do a tax registration?

## There is a cost to a municipality if

- A property is advertised for tax sale, but no one buys it

## There's still some cost recovery when this happens

- You must charge back to the school board and upper-tier (if applicable) a proportionate share of the amount that is being written off (353)

## Fairness

- Not right for some property owners to have to pay taxes, while others don't

## Get property back into productive use, generating tax revenue



# When is a property eligible for tax registration?

## Second year of arrears

You can register a *tax arrears certificate* when a property is in at least its second year of arrears

**373** (1) Where any part of tax arrears is owing with respect to land in a municipality on January 1 in the second year following that in which the real property taxes become owing, the treasurer of the municipality, unless otherwise directed by the municipality, may prepare and register a tax arrears certificate against the title to that land.

## Not two calendar years!

## In plain English...

If there are arrears from any time in 2021

- On 1 January 2022 property is in its first year of arrears
- On 1 January 2023 property is in its second year of arrears, so you can register a tax arrears certificate any time after this day



# When is a property eligible for tax registration?

## Do you need to amend your collection policy?

If you were previously registering when a property was in at least its third year of arrears, you might need to amend your collection policy

## Suggestion

Send a final warning letter—it's not in the legislation, but it's a good idea!





# The Registration Process

- The municipality provides Realtax with the required information for each property
- Realtax uses this information to create Farm Debt Notices and send them out to the appropriate parties
- After the legislated time has expired, a title search is conducted on each property (to confirm lands and identify interested parties)
- Upon completion of the title search, a Tax Arrears Certificate (TAC) is registered on each property (triggering further legislative deadlines)
- Within **60 days** of the TAC being registered, “First Notices” are sent to all interested parties
- Once First Notices are sent, Statutory Declarations regarding the notices are prepared and sent to the municipality
- If the taxes have not yet been paid, Final Notices must be sent between **280** and **310 days** after the registration of the Tax Arrears Certificate
- Once Final Notices are sent, Statutory Declarations regarding the notices are prepared and sent to the municipality
- If the taxes have not yet been paid in full, one year following the registration of the TAC, the property may be advertised for tax sale
- At any time during this process the **full amount** of taxes owing (the “Cancellation Price” in the Municipal Act) may be paid.
- Partial payment cannot be accepted after the registration of the TAC except via an Extension Agreement (subject to conditions)

# The Sale Process (by Tender)

## ***One year after the registration of the Tax Arrears Certificate on title:***

- Sale date is booked
- Mining Information Form 9 is sent to the Ministry of Northern Development and Mines (if applicable)
- Minimum Tender Amount is calculated
- Tax Sale Form 6 advertisement is prepared
- Ads are placed in local paper (once a week for 4 weeks – last ad 7 days prior to sale)
- Ad is placed in Ontario Gazette (at least 7 days before the tax sale)
- Tender packages are made available to the public
- Tender opening is held in a public place as soon as possible after 3 pm on the date of tax sale as per MTSR
- Tenders are received or not



## Tenders Received?

- Highest and Second Highest Bidders are determined
- Rejected tenders and deposits are returned
- Notice to Highest Tenderer is sent
- “Successful Purchaser” is declared (**if** balance is paid within 14 days)
- Deposit is forfeited if balance is not paid by Highest Tenderer within 14 days
- Notice is sent to Second Highest Tenderer
- “Successful Purchaser” is declared once balance has been paid
- Tax Deed is prepared and sent to Successful Purchaser
- Tax Deed is registered on title
- Form 5 Notice of Payment into Court is prepared and filed in court along with surplus tax sale funds
- Form 5 notices are sent

# No tenders?

- Uncollectible taxes are written off and charged back
- If crown interests exist, balances owing are determined
- Whether a property is to be vested or advertised a 2<sup>nd</sup> time (2 year timeline) is determined
- ***If the property is not sold or vested within 2 years of the 1<sup>st</sup> tax sale, the Tax Arrears Certificate shall be deemed to be cancelled***

**Thanks for watching this presentation!**

**Questions?**

