



CHANGES TO TAX REGISTRATIONS AND TAX SALES

UNDER

MUNICIPAL ACT, 2015 ("MA")

MODERNIZING ONTARIO'S MUNICIPAL LEGISLATION ACT, 2017 ("MOMLA") (BILL 68)

*PRESCRIBED INFORMATION FOR THE PURPOSES OF
SECTION 5.0.1 OF THE LAND TRANSFER TAX ACT ("PIPS")*

FORFEITED CORPORATE PROPERTIES ACT, 2015 ("FCPA")

UPCOMING REGULATIONS

PRESENTED AT THE NORTHERN TREASURERS FORUM
THUNDER BAY, OCTOBER 26, 2017

Introduction

A number of important changes to tax registration and tax sale procedures have now gone into effect, and there are more changes coming. The following is an overview of these changes. Please note that this is an overview only. For any and all legal and/or procedural purposes, please refer directly to the applicable legislation and/or regulations.

Changes Already in Effect

Can register a tax arrears certificate in second year of arrears (*MA* s. 373(1))

- Not 2 calendar years—can register on January 1 of the second year after that in which the taxes became owing (If there are any taxes owing from any time in 2015 or earlier, you can register now. If there are taxes owing from any time in 2016, you can register on January 1, 2018)
- You may need to update your collection policy/by-law
- Good idea to advise property owners before you register

Prescribed Information for the Purposes of Section 5.0.1 of the Land Transfer Tax Act (PIPS)

- If the property contains 1 to 6 family residences or is agricultural land
 - Purchaser must submit completed and commissioned form to Ministry of Finance
 - Address for the Ministry, and the form, are available at [PIPS Form](#)

Land that belongs to the Crown as a result of a death *MOMLA 55(3)*

- Land that belongs to the Crown as a result of the death of an individual who did not have any lawful heirs can be sold for tax arrears. This applies regardless of whether the individual died before or after the registration of a tax arrears certificate (*MA 373(3.1)*)
- A tax arrears certificate cannot be registered if the Crown registers a notice that it intends to use the land for Crown purposes (*MA 373.2 (1)(c)*) (*MOMLA 57*)
- If an interested party pays the cancellation price, they will not be given a lien on the cancellation certificate (*MA 375(3.1)(b)*), (*MOMLA 59(3)*).

Escheated land (*FSPA and MOMLA s. 57*)

- Limits on registration (*MA 373.2*)
 A tax arrears certificate cannot be registered if the Ministry has registered any of the following:
 - Order cancelling encumbrances
 - Notice Crown intends to use land for Crown purposes

PLEASE NOTE

⇒ Crown can only register the above instruments after third anniversary of the dissolution of a corporation.

⇒ Ministry cannot register any of the above instruments if there is already a tax arrears certificate registered on title.

You can protect your interest by registering first.

⇒ If there's already an order cancelling encumbrances registered, municipality may apply to Minister for consent to register a tax arrears certificate (*MOMLA 57(2)*).

- Direct transfer of certain escheated lands may be possible—1 foot reserves, road widening, drainage ponds, etc. (*FSPA s.29*)
- On escheated lands, if the cancellation price is paid by an interested party, they will not get a lien on the property (*MA s. 375(3.1)*)



- New notice requirements
 - After registering a tax arrears certificate
 - Where Treasurer is aware that the assessed owner is a dissolved corporation, notice must be sent to

Minister Responsible for the Administration of the *Forfeited Corporate Properties Act, 2015*. Currently, this is the Minister of Infrastructure (MA s. 374.1(5))
 - Where the assessed owner is the Crown (MA s. 374.1(4))

Minister Responsible for the Administration of the *Forfeited Corporate Properties Act, 2015*
Directors and Officers of the dissolved corporation
 - After registering tax deed or notice of vesting
 - Within 15 day's, notice of the registration must be sent to

Minister Responsible for the Administration of the *Forfeited Corporate Properties Act, 2015* (MA s. 379(6.1))
- Notice after making payment into court, notices must be sent to Interested parties, Public Guardian and Trustee, and someone new

Minister Responsible for the Administration of the *Forfeited Corporate Properties Act, 2015* (MA s. 379(6.1))

Please note

The above new notice requirements only apply where a tax arrears certificate was registered on or after December 10, 2016.

Changes Yet to Come

We don't yet have any information on when the following changes will be implemented.

Expedited tax registration and sale for cancelled corporate properties (MOMLA 56)

- Tax arrears certificate may be registered immediately on forfeited corporate property (*MA s. 373.1(1)*) with only one set of notices required, within 30 days of registration (*MA s. 374.1*)
- Can be advertised for sale after 90 days (*MA s. 373.1(2)*)
- Gives municipalities a chance to register a tax arrears certificate before the Crown can register an Order to Cancel Encumbrances or Notice of Intent To Use
- Again, you may want to update your collection policies

Extension Agreements

- Will no longer have to pass a by-law for each extension agreement (*MA s. 378(1)*)
- Council can delegate authority for extension agreements to the Treasurer, or someone else
- In an expedited tax sale, the person wishing to enter into an extension agreement must first obtain the consent of the Minister responsible for the administration of the *Forfeited Corporate Properties Act, 2015*. (*MA s. 378(1.2)*)
- Presently, a municipality can enter into an extension agreement with
 - Any owner of the land
 - The spouse of any owner
 - Any mortgagee
 - Any tenant in occupation of the land

When this section comes into force, a municipality will also be able to enter into an extension agreement with

Any person the treasurer is satisfied has an interest in the land (*MA s. 378(1)*)

Advertising requirements to be set out by Regulation (MOMLA 62(3))

The requirement to advertise once a week in the *Ontario Gazette* and once a week for four weeks in a local newspaper (*MA 379(2)(b)*) are being struck out and replaced with, "in accordance with the regulations".

We don't yet know what advertising requirements will be included in the yet to be proclaimed regulation. However, our understanding is that the Ministry would like to help reduce the advertising costs associated with a tax sale.

One idea that is under consideration is that the first newspaper advertisement be done in accordance with the existing regulation. The next three ads could be much smaller, perhaps along the lines of, "For more information please visit www....."



How would you like to see this changed? The Ministry would like your feedback. If you like, you can send your feedback to Info@Realtax.ca and we will send your thoughts on to the Ministry.

Accounting for cancellation price (*MA s. 376(1)*)

Presently, if a person who pays the cancellation price before the expiry of the one-year period, and the cancellation price was not determined in accordance with a scale of costs by-law (*MA s. 385*), that person may make a written request made within 30 days after making the payment, requiring the treasurer to provide an itemized breakdown of the calculation of the cancellation price.

This section will be amended by striking out "before the expiry of the one-year period".

This is pertinent where the cancellation price is paid after the expiry of the one-year period. It is also pertinent when dealing with the expedited sale of forfeited corporate lands, as you would be dealing with a 90-day period, not a one-year period.

No more payments out of court (*MOMLA 63(6)*)

- Surplus funds will no longer be forfeited to municipality if no one claims them within one year
- A person with an interest in the property may apply for the surplus proceeds 90 day's after payment into court
- They must serve notice of their application to all the other interested parties
- If unclaimed after 10 years, surplus funds will be forfeited to Provincial Crown
- Public Guardian may then apply for the funds

Please note

- Municipality must send notice of payment into court, together with a list of all the interested parties and their addresses, to all those with an interest in the land at the time the tax deed was registered. (*MA s. 380(2)*)
- Make sure all your expenses have been recovered as part of the cancellation price
- Consider updating your Scale of Costs By-law

Grandfathering clause (*MA s. 388.2*)

If a tax arrears certificate is registered before these changes come into effect, the sale will proceed under the Municipal Act, 2001 as it read at that time

Thus, if you register a tax arrears certificate before these changes are proclaimed, you will still be able to apply for payment out of court of the excess sale proceeds.

We hope you find this overview helpful.

All the best,

The Realtax Team