

Tax Registrations 101

Presented by

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Resources

Tax Registrations 101

This presentation is only an overview

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

Definitions

- **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
- **Expedited tax sale**
An expedited process that's available if property was owned by a corporation that has been cancelled

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 other collection efforts 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)

Getting Started

- **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))

- **Not two calendar years!**

If there are arrears from 2017 or earlier

- On 1 January 2018 property is in its first year of arrears
 - On 1 January 2019 property is in its second year of arrears, so you can register any time after this day

- **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!

Notice under the *Farm Debt Mediation Act*

- FDMA is federal legislation, gives farmers an opportunity to re-organize their debts before a creditor can take action to realize on a debt
- Creditor must send a farmer a *NOTICE OF INTENT TO REALIZE ON SECURITY* at least 22 business days before taking action to realize on a debt (FDMA (21) and FDM Regulations 4(2)(c))
- The way the Act is worded, it does not have to be a farm that is in tax arrears
- If the property owner has an interest in a farming operation anywhere in Canada, you must send them a notice
- Notice should be sent to assessed owner(s) **before** proceeding with tax registration
- Link to the NOTICE
<http://www.agr.gc.ca/eng/programs-and-services/farm-debt-mediation-service/notice-of-intent-by-secured-creditor/?id=1538136734881#genproc0>



Agriculture and
Agri-Food Canada
Farm Debt
Mediation Service

Agriculture et
Agroalimentaire Canada
Service de médiation en
matière d'endettement agricole

Roll No. 12 34 567 890 12345 0000
File No. AEAN12-01

NOTICE OF INTENT TO REALIZE ON SECURITY

PRÉAVIS DE RÉALISATION DE SÛRETÉ

As required under Section 21 of the Farm Debt Mediation Act, you are hereby notified that it is the intent of
Conformément à l'article 21 de la Loi sur la médiation en matière d'endettement agricole, vous êtes, par la présente, avisé qu'il est dans l'intention de:

THE CORPORATION OF THE
TOWN OF ANYTOWN

(name of creditor / nom du créancier)

To realize on security given against the assets of:
De réaliser sur la sûreté contre les biens de:

DOE, Jane

(name of farmer / nom de l'agriculteur(trice))

or
domicilié au:

123 Some Street
Anytown, Ontario A1A 2B2

(address / adresse)

The security being:
La sûreté qui est:

Unpaid Realty Taxes

on / sur

123 Some Street
Lot 1, Plan 65M-1234

(type(s) of security / genre(s) de sûreté)

Town of Anytown, Region of Anywhere, Province of Ontario

(asset(s) / bien(s))

You are hereby notified of your right to make application under Section 5 of the Farm Debt Mediation Act for a review of your financial affairs, mediation with your creditors, and to obtain a stay of proceedings against this action. Provided you are:

Vous êtes, par la présente, avisé de votre droit de présenter une demande en vertu de l'article 5 de la Loi sur la médiation en matière d'endettement agricole en vue d'un examen de vos affaires financières, de la médiation avec vos créanciers et de l'obtention d'une suspension des procédures contre cette action. Sous réserve que vous êtes :

- a) currently engaged in farming for commercial purposes; and
- b) insolvent, meaning that you are:
 - unable to meet your obligations as they generally become due;
 - or
 - have ceased paying your current obligations in the ordinary course of business as they generally become due; or
 - the aggregate of your property is not, at fair valuation sufficient, or if disposed of at a fairly conducted sale under legal process would not be sufficient, to enable payment of all your obligations, due and accruing due.

- a) actuellement engagé en agriculture à des fins commerciales;
- b) insolvable, ce qui signifie :
 - que vous ne pouvez vous acquitter de vos obligations au fur et à mesure de leurs échéances; ou
 - que vous avez cessé de vous acquitter de vos obligations courantes dans le cours ordinaire de vos affaires au fur et à mesure de leurs échéances; ou
 - que la totalité de vos biens n'est pas suffisante, d'après une juste estimation, ou ne suffirait pas, s'il en était disposé lors d'une vente régulièrement effectuée par autorité de justice, pour permettre l'acquittement de toutes vos obligations échues ou à échoir.

A secured creditor must wait 15 business days after this notice has been deemed served before beginning action to realize on their security. You may apply for mediation and a stay of proceedings at any time, before, during, or after the 15 business day period, by making an application to the Farm Debt Mediation Service.

Le créancier garanti doit attendre 15 jours ouvrables après que cet avis ait été réputé avoir été signifié pour prendre des mesures en vue de réaliser la garantie. Vous pouvez demander une médiation et une suspension des procédures en tout temps, c'est-à-dire avant, pendant ou après les 15 jours ouvrables, en présentant une demande en ce sens au Service de médiation en matière d'endettement agricole.

The Farm Debt Mediation Service provides qualified farm financial counselors to conduct a financial review and to prepare a recovery plan for your mediation meeting. Qualified mediators are provided to help you and your creditors reach a mutually satisfactory arrangement.

Le Service de médiation en matière d'endettement agricole offre les services de conseillers financiers compétents en agriculture qui peuvent mener un examen financier et préparer un plan de recouvrement en prévision de votre réunion de médiation. Les services de médiateurs compétents sont offerts pour vous aider ainsi que vos créanciers à conclure un accord satisfaisant pour toutes les parties.

Application forms and more information about the service can be obtained from:

Vous pouvez obtenir les formulaires de demande et un complément d'information sur le service auprès de :

Farm Debt Mediation Service/ Service de médiation en matière d'endettement agricole
1-866-452-5556

Dated this _____ day of _____ August, 2012 at _____ Town of Anytown
Date ce _____ jour de _____ à _____

Signature of Secured Creditor or authorized representative
Signature du créancier garanti ou du représentant autorisé

Creditor Phone Number
Numéro de téléphone du créancier

The information you provide on this document is collected by Agriculture and Agri-Food Canada under the authority of the Farm Debt Mediation Act for the purpose of facilitating financial arrangements between farmers and their creditors. Personal information will be protected under the provisions of the Privacy Act and will be stored in Personal Information Bank AAC-PPU-227. Information may be accessible or protected as required under the provisions of the Access to Information Act.

Les renseignements que vous fournissez dans le présent document sont recueillis par Agriculture et Agroalimentaire Canada en vertu de la Loi sur la médiation en matière d'endettement agricole afin de faciliter les arrangements financiers entre les agriculteurs/les éleveurs et leurs créanciers. Les renseignements personnels seront protégés en vertu de la Loi sur la protection des renseignements personnels et seront stockés dans le fichier d'information personnelle AAC-PPU-227. L'information peut être accessible ou protégée selon ce que prescrit la Loi sur l'accès à l'information.

Copy: 1 Farmer 2 Administrator 3 Creditor
Copie : Agriculteur(trice) Administrateur Créancier

AAFC / AAC4805a (2005/01)

Canada

Title search and execution search

- **Need to find**
 - Legal description of property
 - Name and address of *Interested Parties* (374(1)), because you have to send notices to them
(well discuss *Interested Parties* shortly)
- **Conduct a corporate search if property is owned by a corporation**

Can't register a tax arrears certificate if...

- ***Order Cancelling Encumbrances* has been registered by Crown (373.2(1)(a))**
 - This only applies to forfeited corporate lands
 - Order does not cancel property taxes owed by former corporate owner
 - You can still register if you obtain consent from the Crown
- ***Notice of Intent to Use for Crown Purposes* has been registered**
 - This can apply to forfeited corporate lands (373.2(1)(b)), or to
 - Land that belongs to the Crown as a result of the death of an individual who did not have any lawful heirs (373.2(1)(c))
 - Province will not register this if a tax arrears certificate has already been registered

The registration

- **Prepare a tax arrears certificate and register it on title (373(1))**
 - *Municipal Tax Sales Rules, Schedule 1*
- **Tax arrears certificate can't include more than 1 separately assessed property (373.1(3))**
 - For example, if you have a subdivision of 10 separately assessed properties that are all in arrears, you need 10 tax arrears certificates
- **You need to know who the interested parties were on the day the tax arrears certificate was registered**

Properties

PIN

Description

Address

Applicant(s)

Name

THE CORPORATION OF THE TOWN

Acting as a company

Address for Service

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation

Statements

Schedule: Tax Arrears Cancellation Certificate, Municipal Act, 2001

On

hereby verifies that

(i) the tax arrears certificate registered on June 5, 2018 as Instrument No. cancelled in respect of the land described in this tax arrears cancellation certificate,

(ii) the cancellation price was paid on June 4, 2019,

(iii) the cancellation price was paid by or on behalf of the owner or the spouse of the owner of the land or a person who was not entitled to receive notice under subsection 374(1) of the Municipal Act, 2001, or under the circumstances where subsection 375 (3.1) of the Municipal Act, 2001 applies to the land and accordingly there is no lien on the land described in this document in respect of the payment.

Signed By

Jeffrey Frank Oberman

acting for
Applicant(s)

Signed 2019 06 10

Tel

Fax 905-853-5885

I have the authority to sign and register the document on behalf of the Applicant(s).

File Number

Applicant Client File Number :

Who the Interested Parties are 374(1)

- These are the parties you must send notices to
 - Assessed owner(s)
 - Spouse of assessed owner(s)
 - Registered owner(s)
 - Spouse of registered owner(s)
 - Everyone else who had a registered interest on the day the tax arrears certificate was registered, *except*
 - Parties whose interest is only through an easement or restrictive covenants (379 (7.1)(a))
 - Crown in right of Canada (379 (7.1)(b))

There's more...

More Interested Parties (374(1))

- **If the Crown is shown as the assessed owner as a result of an escheat or forfeiture, you must also send notices to**
 - The Directors and Officers of the dissolved corporation
 - Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*
- **Where the treasurer is aware that the assessed owner is a dissolved corporation, must also send notices to**
 - Minister responsible for the administration of the *Forfeited Corporate Property Act, 2015*

Can you accept a partial payment?

- If you have not yet registered a tax arrears certificate
 - Yes, you can accept a partial payment
- If you have registered a tax arrears certificate
 - No, you cannot accept a partial payment

(347(3)) "No part payment shall be accepted on account of taxes in respect of which a tax arrears certificate is registered under this Act except under an extension agreement entered into under section 378."

(We'll discuss extension agreements shortly)

Form 1—Notice of Registration of Tax Arrears Certificate (“*First Notices*”)

- Within 60 days of registration, prepare and send First Notices to *Interested Parties* (374(1))
 - By personal delivery or registered mail (381(1))

Form 1
Municipal Act, 2001

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

Name: «Name»
Address: «Address»

Regarding property located at:

PIN:

1. A tax arrears certificate, a copy of which is attached, was registered on , against the title to the land to which the certificate applies as instrument number .

2. The tax arrears certificate was registered under section 373 of the *Municipal Act, 2001*.

If, at the end of the one-year period following the date of the registration of the tax arrears certificate, the cancellation price remains unpaid and there is no subsisting extension agreement, the land will be sold by public sale.

If you are a person entitled under the *Municipal Act, 2001* to receive this notice and you pay the cancellation price, you will, if you are not the owner or the spouse of the owner of the land, have a lien on the land for the amount paid in prior over the interest of any other person to whom notice is sent under that Act. However, you will not have a lien on the land for the amount paid if the land is vested in the Crown because of an escheat or forfeiture as a result of the dissolution of a corporation or belongs to the Crown as a result of the death of an individual who did not have any lawful heirs.

OR

The tax arrears certificate was registered under section 373.1 of the *Municipal Act, 2001*.

If, at the end of the 90 day period following the date of the registration of the tax arrears certificate, the cancellation price remains unpaid and there is no subsisting extension agreement, the land will be sold by public sale.

The land is vested in the Crown because of an escheat or forfeiture as a result of the dissolution of a corporation. If you are a person entitled under the *Municipal Act, 2001* to receive this notice and you pay the cancellation price, you will not have a lien on the land for the amount paid.

3. The treasurer has no obligation to inquire into or form any opinion of the value of the land before conducting a sale under the *Municipal Act, 2001* and the treasurer is not under any duty to obtain the highest or best price for the land.

4. You may claim entitlement to a share in the proceeds of the sale of the land by applying to the Superior Court of Justice within 10 years of the payment into court by the treasurer of the proceeds of sale minus the cancellation price, however the application may not be made earlier than 90 days after the payment into court.

5. If there is no successful purchaser at the public sale, the land, upon the registration of a notice of vesting will vest in the municipality (or board).

6. Inquiries related to the matters set out in this notice may be directed to:

Title

Please quote Roll No.

Name of Municipality or Board

Address of Municipality or Board

dated at _____ this _____ day of _____ 2019.

Signature of Treasurer or Other Officer or
Employee Authorized to Give this Notice

Title

Personal Information contained on this form, collected pursuant to the *Municipal Act, 2001* and Regulations thereunder, will be used for the purposes of that Act. Questions should be directed to the Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

Note: This document need not be registered.

S.O. 2001, c. 25, O. Reg. 181/03 MT

Form 2—Statutory Declaration Regarding Sending of Notice (374(3))

- Sets out names, addresses, nature of interest, date notice was sent
- Must be signed and commissioned
- Does not have to be registered on title
- If someone asks to inspect it, you must allow them to do so (374(4))

STATUTORY DECLARATION REGARDING SENDING OF NOTICE

In the matter of the title to the land mentioned below situate in the Town of Anytown in the Region of Anywhere
I, Ms. U. B. Treasurer, Treasurer of the Town of Anytown in the Region of Anywhere, do solemnly declare as follows:

In accordance with section 374 of the *Municipal Act, 2001*, notice was sent of the registration of a tax arrears certificate relating to the land described in this document to each of the interested parties whose names and addresses are listed below on the date set forth opposite their respective names.

Names and Addresses of Interested Parties and Dates of Mailing of Notice:

Name	Nature of Interest	Address	Mailing Date
1. Jane DOE	Assessed Owner	123 Some Street Anytown, Ontario A1A 2B2	January 28, 2019
2. Spouse of Jane DOE	Spouse of Assessed Owner	123 Some Street Anytown, Ontario A1A 2B2	January 28, 2019
3. Jane DOE	Registered Owner	500 Ontario Street Othertown, Ontario 2B2 4D4	January 28, 2019
4. Spouse of Jane DOE	Spouse of Registered Owner	500 Ontario Street Othertown, Ontario 2B2 4D4	January 28, 2019
5. MORTGAGE & LOAN CO.	Mortgagee	200 Main St. Anytown, Ontario 1A1 3C3	January 28, 2019
6. BUSINESS DEVELOPMENT BANK	Mortgagee	1 Bay St. Anytown, Ontario B1B 2C2	January 28, 2019

Municipal Address of land: 123 Some Street
Anytown, Ontario A1A 2B2

Legal Description of land: PIN: 12345-6789(LT)
PCL 1-1, SEC 65M1234
Lot 1, Plan 65M-1234, Town of Anytown

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me

at The Town of Anytown

this day of February 2019

A Commissioner, etc.

Treasurer or Authorized Officer or Employee of the
Municipality or Board

Treasurer

Title

Roll No. 12 34 567 890 12345 0000
Realtax Inc. File No. AEAN19-01

Note: This document need not be registered.

Form 3—Final Notice (379(1))

- If the taxes have not yet been paid, must be sent 280 and 310 days after the registration of the tax arrears certificate
- Must be sent to the parties who were entitled to receive First Notices
- Update the searches before you prepare the Final Notices
 - Need to know if any interested parties have a new address

Form 3
Municipal Act, 2001

FINAL NOTICE

1) «Name»
Address: «Address»

Regarding property located at:

2) PIN:

1. You are hereby notified, as a person to whom a notice of registration of a tax arrears certificate against the land described above was sent, that the cancellation price remains unpaid and that there is no subsisting extension agreement.
2. The land will be advertised for public sale unless the cancellation price is paid or an extension agreement is entered in before .
3. The treasurer has no obligation to inquire into or form any opinion of the value of the land before conducting a sale under the *Municipal Act, 2001* and the treasurer is not under any duty to obtain the highest or best price for the land.
4. Inquiries related to the matters set out in this notice may be directed to:

Title

Please quote Roll No.

Name of Municipality or Board

Address of Municipality or Board

dated at _____ this _____ day of _____ .

Signature of Treasurer or Other Officer or
Employee Authorized to Give this Notice

Title

Personal Information contained on this form, collected pursuant to the *Municipal Act, 2001* and Regulations thereunder, will be used for the purposes of that Act. Questions should be directed to the Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

Note: This document need not be registered.

S.O. 2001, c. 25, O. Reg. 181/03 MT:

Extension Agreements (378(1))

- Before the expiry of the *one-year period*

(that's one year from the date of the registration of a tax arrears certificate)

a municipality may enter into an Extension Agreement with any of the following:

- Any owner of the land
- Spouse of any owner
- Any mortgagee
- Any tenant in occupation of the land
- Any person the treasurer is satisfied has an interest in the land

Extension Agreements (378(1))

- Agreement cannot reduce the amount of the cancellation price, or prohibit any person from paying the cancellation price (378(2))
- Extension Agreement “freezes the clock” that’s ticking down in the one-year period (378(4))
- Agreement must state under what conditions it ceases to be considered a subsisting agreement (378(3)(a))

For example:

If any of the terms of the Agreement are not met, it ceases to be considered a subsisting agreement on the day that the treasurer notifies the party by registered mail.

- When it ceases to be considered a subsisting agreement, the clock starts ticking again (378(4))
- You may enter into an extension agreement, you do not have to!

Extension Agreements Authorized by Treasurer

- Only pertains to properties where Tax Arrears Certificate was registered after January 1 2018 (388(2))
- 'Municipality' may enter into extension agreement; authorizing by-law is no longer required each time (378(1))
- Municipality (Council) may delegate this authority to Treasurer or other Officer and set limits, or may decide to maintain status quo
- Party to extension agreement can be anyone the treasurer is satisfied has an interest in the property (378(1)(1.1))
- If extension agreement is in regards to cancelled corporate property, consent of the Minister of Infrastructure is required (378(1.2))

Schedule 2—Cancellation Certificate (375(1))

- Legislation states,
“Before the expiry of the one-year period...any person may have a tax arrears certificate ...cancelled by paying to the municipality the cancellation price as of the date the payment is tendered” (375(1)), (1.1)
- But what if the one year-period has already expired? Should you accept the payment?
- The short answer is,

YES!!! ABSOLUTELY ACCEPT THE PAYMENT!!!!

Expedited Tax Sales

- These are properties owned by corporations that were cancelled or dissolved
- Can register Tax Arrears Certificate (TAC) on title as soon as there are arrears (373.1)
- First notices to be sent within 30 days of registration (374(1))
- No final notices
- Extension agreement can only be done within 90 days of registration (378(1.1))
- Begin tax sale 90 days after registration of TAC (379(2.0.1))
- No priority lien awarded if cancellation price paid (375(3.1))

Transferring certain properties to municipality without doing a tax sale

Order to Transfer

Province may transfer 'certain' properties directly to municipality (without tax sale) if appropriate (*Forfeited Corporate Properties Act, 29*)

Includes properties such as 1foot reserves, storm water retention ponds, blocks for walkways and parks that were to be granted to the municipality as part of the Subdivision/Development Agreement but the corporation was cancelled before this was completed.

New Forms & Schedules

- Forms 1 to 10
(First and Final Notices, Statutory Declarations re: sending of Notices, Statement of Facts, Advertisements, Tender Form, etc.)
are no longer found attached to the MTSR regulation but are available online on the Government of Ontario Central Forms Repository under the listing for the Ministry of Municipal Affairs:
<http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/>
- Index of Forms and their official names for searching the Repository can be found in the MTSR Schedule 5
- Updated Schedules 1 to 4 for the Tax Arrears and Cancellation Certificates and Statements to include with Tax Deeds and Vestings are attached to the MTSR

KEY TAKE AWAYS

- Make sure you notify all the required parties, within the required timeframes
- Don't accept a partial payment when you cannot
- Do accept payment in full when you can

Thanks for coming to this workshop!

Jeff Oberman

President

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