



Tax Collection & Enforcement

2010 SUMA Convention Education Session E6

January 31, 2010

Initial considerations

- Tax collection and enforcement activities must be based on legislative provisions in:
 - *The Tax Enforcement Act*
 - *The Municipalities Act*
 - *The Cities Act*
 - *The Northern Municipalities Act*

Initial considerations

- Assessments must be confirmed by the Saskatchewan Assessment Management Agency
- Tax notices must be sent to taxpayers on or before deadline

Initial considerations

- Council must decide which options will be used:
 - Acquiring title to property
 - Non-title collection methods
 - Sue the taxpayer
 - Intercept rent or insurance proceeds
 - Seize goods
 - Distrain removed improvements

Initial considerations

- Municipal tax policies should encourage payment of arrears
 - Is the penalty rate too low?
 - When are penalties applied?
 - Are reminder notices sent to delinquent taxpayers?
 - Are installment payments encouraged?

The Tax Enforcement Act

- Actions involve:
 - Notifying everyone the municipality will be taking action
 - Registering the municipality's interest in the property
 - Notifying the individual and affected parties of progressive steps
 - Acquiring title to the property
 - Liquidating the property

List of lands with arrears of taxes

- The list can be prepared as early as January 1
 - Must be done by November 15
 - When do you start?

List of lands with arrears of taxes

- Council can exclude certain properties from the list
 - Arrears are less than 50% of previous year levy
 - Council can set a lower threshold (40%)
- Statutory exclusions
 - A lien is already registered against the property
 - Property is a mobile home (no land)

List of lands with arrears of taxes

- The list is submitted to mayor
 - Many councils acknowledge the list in the minutes
- The list does not contain personal information, such as owners' names

The tax enforcement list

- The tax enforcement list is prepared by the administrator
- Provides public notice a lien will be registered if arrears and costs are not paid by certain date (60 days or more)
- Advertised in newspaper and copy posted in municipal office

The tax enforcement list

- No requirement to provide copy to owner
 - Sending a copy may encourage payment
- No council resolution is required
 - Council does not have authority to prevent the treasurer's actions
 - Treasurer has statutory duty

After 60 days

- The owner or someone else pays arrears and costs
 - No further action required
- No payment has been received
 - Municipality registers a tax lien
- Partial payment has been received
 - Partial payments do not stop proceedings
 - Council may have policies respecting substantial payments

Registering the tax lien

- Treasurer will register an interest based on a tax lien against applicable lands
 - Council resolution not required
 - Treasurer has statutory duty
- Costs of registering the interest are added to tax arrears

After the tax lien

- Municipality must wait minimum of 6 months before taking further action
 - Municipality may request consent from Provincial Mediation Board to begin sooner

After the tax lien

LONG PROCESS

- Initial notice provided to affected parties
- Obtain consent from PMB to finalize
- Final notice to affected parties
- Obtain title

SHORT PROCESS

- Notice provided to the assessed owner
- Obtain title

Short process qualifiers

- The short process can be used if all of the following conditions apply:
 - The taxable assessed value of the property is less than \$5,000
 - The property is not occupied
 - There have been no payments towards taxes in the past 2 years

Initial notice

- Council must authorize the administrator to begin proceedings to acquire title
 - No further resolutions will be required until title acquisition unless Council suspends proceedings
- Notice is provided to all parties who have a registered interest in the property
 - Municipality will apply for title in 6 months

Initial notice

- Notice served in person or by registered mail
 - Alternative methods exist for special circumstances
- If the owner is or might be a farmer, the municipality must comply with requirements under *The Farm Debt Mediation Act*
- Costs are added to and form part of tax arrears

After 6 months

- If using the short process, council may authorize title acquisition
- If using the long process, municipality may postpone proceedings
- Treasurer will apply to Provincial Mediation Board for consent to finalize

Provincial Mediation Board

- The PMB will attempt to create a reasonable payment plan
 - Municipality to receive cash from owner
 - Owner to retain property
- Municipality notifies PMB if owner defaults
- PMB consent to proceed may be conditional

Final notice

- Final notice is required if municipality is using long process
- Notice is served to all parties who have registered an interest in the property
 - Municipality will apply for title in 30 days

After 30 days

- Council passes a resolution authorizing the administrator to acquire title to the property
- Certain costs added to taxes
 - Expenses incurred by municipality to remedy nuisances (nuisance abatement bylaw)
 - Unpaid utility charges
- Tax arrears and year-to-date current taxes transferred to Tax Title Property Account

Property liquidation

- Property to be offered for sale by tender or auction within 1 year
- Municipal officials and members of council are prohibited from purchasing tax title property
 - Limited opportunities exist

Proceeds from TTP sale

- Proceeds from tax title property sale distributed in following order:
 - Federal government liens
 - Tax enforcement / title acquisition costs
 - Tax arrears
 - Provincial liens
 - As required by PMB conditions

Sales considerations

- Council should define terms and conditions relative to property sale
- Typical conditions may include:
 - Improvements to be demolished
 - Factors more important than the sales price
- Municipalities may retain tax title property for municipal use

Personal belongings

- Ownership of personal belongings does not transfer to the municipality as part of the tax enforcement process
- Municipality will proceed through unclaimed personal property provisions in municipal legislation
 - Property retained for 90 days
 - Dispose of property as determined by council
 - Previous owner may claim net proceeds within one year

Multiple strategies

- Municipalities may continue with other efforts to enforce collection of taxes while proceeding through the tax enforcement process
 - Continue sending monthly notices
 - Take advantage of opportunities to encourage owner to pay taxes

Voluntary transfer

- Council does not have to accept a person's offer of property in settlement of tax arrears
 - If Council refuses offer, the municipality should be prepared to use non-title enforcement options
 - If offer is accepted
 - Ensure the municipality receives clear title
 - Negotiate who will pay transfer costs
 - Property to be sold as tax title property

Occupied property

- Occupants of tax title property are tenants
- Relationship between municipality and tenant is legislatively described
 - Residential property
 - *The Residential Tenancies Act, 2006*
 - Other property
 - *The Landlord and Tenant Act*

Private arrangements

- Private arrangements may create political issues
 - Unregistered agreements for sale of property
 - Personal possessions may belong to someone other than the owner
 - New owner did not check tax situation before purchasing property

Summary

- Tax enforcement procedures ensure all properties contribute to financing public services
- Tax enforcement is a procedural activity and it takes time
 - Owners and other parties must be informed
 - Non-compliance increases potential for challenge
- Unique situations require special attention

Questions

- Further information
 - Web site
 - www.municipal.gov.sk.ca
 - Advisory Services
 - 306-787-2680