

**Subject: Uncollectible Taxes Under Section 354 of the *Municipal Act, 2001***

**File Number: ACS2024-FCS-REV-0005**

**Report to Finance and Corporate Services Committee on 1 October 2024**

**and Council 16 October 2024**

**Submitted on 19 September 2024 by Joseph Muhuni, Deputy City Treasurer,  
Revenue Services, Finance and Corporate Services Department**

**Contact Person: Krista O'Brien, Program Manager, Property Assessment and  
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**Ward: Citywide**

**Objet : Impôts fonciers irrécouvrables en vertu de l'article 354 de la *Loi de  
2001 sur les municipalités***

**Numéro de dossier : ACS2024-FCS-REV-0005**

**Rapport au Comité des finances et des services organisationnels**

**le 1er octobre 2024**

**et au Conseil le 16 octobre 2024**

**Soumis le 19 septembre 2024 par Joseph Muhuni, Trésorier municipal adjoint,  
Recettes, Direction générale des finances et des services organisationnels**

**Personne ressource : Krista O'Brien, Gestionnaire de programme,  
Évaluations foncières et PERI, Direction générale des finances et des  
services organisationnels**

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**Quartier : À l'échelle de la ville**

## **REPORT RECOMMENDATION**

**That the Finance and Corporate Services Committee recommend that Council approve taxes totalling \$564,254 be written-off from the tax roll in accordance with the provisions of Section 354 of the Municipal Act, 2001, plus any related**

interest and fees for the properties listed on Document 1. The City has budget allocated for these write-offs in the tax remissions account.

## **RECOMMANDATION DU RAPPORT**

**Que le Comité des finances et des services organisationnels recommande au Conseil d'approuver le retranchement des impôts totalisant 564,254 \$ du rôle de perception, en vertu de l'article 354 de la *Loi de 2001 sur les municipalités*, y compris tous les frais et intérêts connexes, pour ce qui est des propriétés inscrites dans le document 1. La Ville a des fonds alloués à ces radiations dans le compte de remises d'impôts.**

## **BACKGROUND**

In accordance with the provisions of section 354 of the *Municipal Act, 2001*, this report recommends that uncollectible outstanding taxes in the amount of \$564,254 be written-off and removed from the tax roll.

## **DISCUSSION**

In 2024, the City invoiced approximately \$2.58 billion for municipal and education property taxes. About 99 per cent of all property taxes billed are collected and paid in the same year, with the remaining one per cent outstanding being paid in subsequent years. Revenue Services has implemented a rigorous collection process to follow up on outstanding property tax account balances. The Municipal Tax Sale Collection process is highly legislated and consists of activities that include a series of legislated collection notices at specific time frames. Collection phone calls are also made while unpaid accounts are sent to the final stage, which is a tax sale. The City of Ottawa typically holds two tax sales per year. Before a tax sale, the City must go through a prescriptive legislated process that could run up to two years and includes several legislated notices.

Section 354 of the *Municipal Act, 2001* allows the Treasurer to remove taxes from the tax roll where other provisions of the *Municipal Act, 2001*, provide authority to do so or following approval from Council.

Taxes may not be recommended to Council for write-off until after an unsuccessful tax sale under Part XI of the *Municipal Act, 2001*, except:

- If the property is owned by Canada, a province or territory or a Crown agency of any of them or by a municipality.

- If the recommendation of the Treasurer includes a written explanation of why conducting a tax sale would be ineffective or inappropriate.

Staff have determined that taxes billed on 190 properties are uncollectible or no longer payable and should be written-off. Details of the properties, including the reason and the amounts that are being recommended for write-off, are provided in Document 1 on file with the Deputy City Treasurer, Revenue.

A breakdown of the corresponding amounts can be found in Table 1 below.

**Table 1 – Breakdown of corresponding amounts**

<i><b>Municipal Act Authority</b></i>	<b>Municipal Tax</b>	<b>Education Tax</b>
354(3) Unsuccessful Tax Sale	\$9,615	\$2,390
354(4)(a) Government Owned Property	\$43,870	\$18,753
354(4)(b) Tax Sale Ineffective or Inappropriate	\$377,008	\$112,618
<b>Total</b>	<b>\$430,493</b>	<b>\$133,761</b>

### **Unsuccessful Tax Sale**

Section 354(3) of the Municipal Act, 2001 allows Council to write off taxes after an unsuccessful tax sale. This provision acknowledges situations where properties have accumulated significant tax arrears, were scheduled for a tax sale to recover the owed taxes but due to various issues, there were no bidders for the properties and the tax sale was unsuccessful.

Taxes levied on one property with an unsuccessful property tax sale totalling \$12,005 are recommended for write off as the City has no means to further collect them. Despite extensive collection efforts, staff have been unable to recuperate the outstanding taxes through traditional tax sale method. A property tax sale is generally the municipality's last resort to collect on outstanding taxes.

The Municipal share of the taxes is \$9,615 and the City's remissions budget includes a provision for these types of property tax adjustments and write-offs.

The education tax portion is \$2,390 and will be applied towards education property tax remittance to Ottawa school boards.

### **Government Owned Property**

Section 354(4)(a) of the *Municipal Act, 2001*, allows Council to write off taxes without a tax sale if the property is owned by Canada, a province or territory or a Crown agency of any of them or by a municipality.

Taxes levied on seven government properties, totalling \$62,623 are recommended for write off as the City has no tools to further collect them.

The taxes remain unpaid due to disputes related to tenanted space or incorrectly classified space in Federal or Crown-owned properties that date back more than 10 years. These taxes for the tenanted spaces were billed as regular taxes as required by law. Since these are regular taxes, the City cannot challenge non-payment through the Dispute Advisory Panel as they are not PILTs. On the other hand, these properties cannot be sold to recover tax arrears as they are government owned. Many unfruitful discussions and negotiations have been held with the responsible government entities. Since no further collection efforts on these properties are possible, staff recommend that the taxes levied on these properties be written off as the City can no longer collect them.

The Municipal share of the taxes is \$43,870 and the City's remissions budget includes a provision for these types of property tax adjustments and write-offs.

The education tax portion is \$18,753 and will be applied towards education property tax remittance to Ottawa school boards.

### **Write off Where a Tax Sale is Ineffective or Inappropriate**

Section 354(4)(b) of the *Municipal Act, 2001* allows Council to write off taxes if a tax sale is deemed to be ineffective or inappropriate.

Over the last 10 years Revenue Services has conducted a thorough review of outstanding property tax balances on property tax rolls that have since been deleted and the master parcel subdivided. Some deleted tax rolls had unpaid taxes from pre-amalgamation periods in the former municipalities, dating back to the 1980s and 1990s. Over the last 10 years staff have researched, apportioned and collected as much as was feasible to collect. Since there is no longer a property tied to a deleted roll number, the City no longer has the option to sell the property to recover taxes and therefore must employ other mechanisms to try and recover the funds.

A deleted roll number is the result of a property severance where a parcel of land is divided into two or more distinct properties. When a property is severed, the originating assessment value and legal description are reallocated into the new parcels and

adjusted among the newly created properties often leaving the originating roll number as obsolete and without value. It becomes inactive and non-billable and referred to as a deleted roll number.

While collecting on deleted rolls arrears from 2015 and years prior, staff ran into several complications:

- Properties that would receive the unexpected tax bills for the apportionment may have changed ownership since the original severance. Holding the current owners responsible for taxes dating back several decades might not be fair, especially when they were not part of the original severance process.
- Imposing tax burdens retroactively without proper notice could be considered procedurally unfair. The concept of fairness and a "window of reasonableness" was also considered. Going back too far in time to collect unpaid taxes may be seen as unfair or punitive, and there might be a reasonable limit to the retroactive application of tax obligations.
- Practical constraints in obtaining historical severance information dating back 30 to 40 years.

Of the 277 rolls with arrears of \$2.4 million identified at the beginning of the review, 95 rolls with arrears of \$1.9 million have been paid in full. The remaining 182 rolls with arrears of \$489,625.69 are uncollectible with no ability to Tax Sale.

Procedural changes implemented 10 years ago ensure that deleted rolls are reviewed annually and apportionments are processed accordingly, thus fully mitigating the risk of this kind of tax loss.

The Municipal share of the taxes is \$377,008 and the City's remissions budget includes a provision for these types of property tax adjustments and write-offs.

The education tax portion is \$112,618 and will be applied towards education property tax remittance to Ottawa school boards.

## **FINANCIAL IMPLICATIONS**

The City's share of uncollectible taxes is \$430,493 and has been provided for under the Property tax remissions budget. The education tax portion is \$133,761 and will be applied towards education property tax remittance to Ottawa school boards.

## **LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report.

### **COMMENTS BY THE WARD COUNCILLOR(S)**

This is a citywide report.

### **CONSULTATION**

The public consultation process is not applicable.

### **ACCESSIBILITY IMPACTS**

Finance and Corporate Services Department adheres to the requirements of the *Accessibility for Ontarians with Disabilities Act, (2005)* in its operations, programs and initiatives. This report is administrative in nature and has no associated accessibility impacts.

### **TERM OF COUNCIL PRIORITIES**

This report supports the current 2023-2026 Term of Council Priorities as well as the City's commitment to financial sustainability and transparency.

### **SUPPORTING DOCUMENTATION**

These documents are "Confidential" as they contain information relative to personal matters about an identifiable individual.

Document 1 – 2023 Report # 1 Recommendation to Council under section 354 of the *Municipal Act, 2001*, held on file with the Deputy City Treasurer, Revenue.

### **DISPOSITION**

Following consideration by the Finance and Corporate Services Committee, this report will be forwarded to Council for approval. Upon approval, Revenue Services will ensure all the necessary adjustments are applied to the property tax accounts.