



Municipal Property Tax Sales:

An Introduction and Best Practices



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Key Contacts

Ministry of Municipal Affairs

Contact the Ministry of Municipal Affairs for answers to questions about the material contained in this guide.

Ministry of Municipal Affairs

Infrastructure and Finance Branch

Local Government Finance

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Victoria B.C. V8W 9T2

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Other Resources

BC Laws

BC Laws provides free public online access to the current laws of British Columbia. This unofficial current consolidation of B.C. Statutes and Regulations is updated continually as new and amended laws come into force. Electronic versions of the *Community Charter*, the *Local Government Act*, and the *Vancouver Charter* are available on the BC Laws website at: www.bclaws.ca

NOTE: The Province of British Columbia does not warrant the accuracy or the completeness of the electronic version of the [Statutes and Regulations](#) available online at BC Laws.

Disclaimer

The information contained in the *Municipal Property Tax Sales: An Introduction and Best Practices* is provided as general reference and while all attempts have been made to ensure the accuracy of the material – the guide is not a substitute for provincial legislation.

Please refer directly to the latest consolidation of provincial statutes at BC Laws (www.bclaws.ca) for specific election-related provisions and requirements within the *Community Charter*, the *Local Government Act* and the *Vancouver Charter*.

Preamble

The *Local Government Act* requires the municipal property tax collectors to conduct a tax sale annually when required. The tax sale is where parcels of real property with delinquent property taxes are put up for public auction. The tax sale process requires certain actions to take place prior to, during, and after the tax sale.

The *Municipal Property Tax Sales: An Introduction and Best Practices* provides information about the tax sale process held by municipalities. Topics such as public notice for tax sale, redemption of a property that has gone to tax sale, and best practice considerations for a municipal tax sale are included. The improvement district tax sale process differs from municipalities – further details are [available online](#).

NOTE: A template letter for municipalities providing notice of municipal tax sale to owners with delinquent property taxes is in Appendix 1 on page 8.

Introduction to the Municipal Property Tax Sale Process

Property value tax is the principal source of revenue for municipalities. It is a tax levied on the value of land and improvements (e.g., building and fixtures). Municipalities levy property value taxes for their own needs and also levy taxes on behalf of other public authorities (e.g. regional districts and hospitals). A tax sale is a public auction of properties within a municipality which have unpaid, delinquent property taxes from two years prior to the current year.

Determining What Properties to Include for Tax Sale

Unpaid property taxes become “taxes in arrears” after December 31 of the year they are levied. Interest then starts to accrue on the total unpaid amount. One year later, if still unpaid, these property taxes and accrued interest become delinquent after December 31.

A property with delinquent taxes is subject to tax sale if those taxes are unpaid by the statutory tax sale date. The statutory tax sale date is the last Monday in September each year.

General tax collection scheme timeline:

Spring 2018

- Taxes are levied and billed.
- The due date is July 3, 2018.



July 4, 2018

- 10% penalty is applied to the unpaid account balance, including any unclaimed homeowner grant.



Next calendar year: Jan. 1, 2019

- Taxes, penalties and interest accrued and still unpaid become taxes in arrears.
- Interest in the unpaid account starts accruing.
- Next year, arrears will become delinquent.



Following calendar year: Jan. 1, 2020

- Any taxes, penalties and interest accrued and still unpaid become delinquent taxes.
- Interest continues to accrue.
- Next deadline is in September of this year.



September 28, 2020

- Tax Sale Occurs
- Delinquent taxes are unpaid and the property must be taken to tax sale on the last Monday in September.

Some municipalities elect, by bylaw, to use an alternative taxation scheme where they can vary the due dates and application of penalties and interest. However, properties with delinquent taxes under an alternative scheme must also be sold at tax sale on the last Monday in September.

Interest on Arrears or Delinquent Taxes

Arrears and delinquent taxes bear interest at a rate prescribed by the Lieutenant Governor in Council under section 11(3) of the *Taxation Rural Area Act* until they are paid or recovered. The interest becomes part of the unpaid taxes and the total amount of the taxes in arrears and delinquent taxes is a charge on the land or improvements, or both, as if the penalties and interest had originally formed part of the taxes imposed.

The interest rates on taxes in arrears and delinquent taxes are calculated by adding three percent to the prime lending rate, as of the 15th of the month preceding the effective date, of the principal banker to the provincial government. The Canadian Imperial Bank of Commerce is the provincial government's principal banker for interest rate reference purposes. Current and historical interest rates can be found on the [Interest on Property Tax Overpayment to Municipalities](#) webpage.

Tax Sale Notice

At least 60 days before the date of the tax sale, Section 647.1 of the *Local Government Act* requires municipalities to send a notice of the potential for the tax sale of all properties with delinquent taxes. The notice will contain information about the property, the taxes outstanding and the tax sale.

NOTE: The template letter in Appendix 1 may be used in addition to the requirements of section 647.1 of the *Local Government Act*.

When and Where to Hold a Tax Sale

Section 645(1) of the *Local Government Act* requires the annual municipal tax sale to occur at 10:00 a.m. on the last Monday in September, at the council chambers. If the last Monday in September is a holiday, the tax sale must be held on the next Monday that is not a holiday.

How to Hold a Tax Sale

The municipal tax sale is conducted by holding a public auction. The lowest amount that a parcel of property can be sold at is the **upset price**.

The upset price is comprised of:

- the sum of all the property taxes; outstanding at the date of the tax sale;
- all applicable penalties and interest;
- 5% of all taxes, penalties and interest; and,
- any fees prescribed under the [Land Title Act](#).

The highest bidder above the upset price for a parcel held at a municipal tax sale must be declared the purchaser. A person authorized by the council may bid for the municipality at the annual tax sale up to a maximum amount set by the council. If there is no bid, or no bid equal to the upset price, the municipality must be declared the purchaser.

If the municipality is declared the purchaser of the parcel, it may be offered for sale again later at the annual tax sale. The purchaser must immediately pay the collector the amount of the purchase price, otherwise the collector must promptly again offer the parcel for sale.

After the Tax Sale

In accordance with section 665(1) of the *Local Government Act*, rights to the parcel of property held by the owner immediately cease to exist after the property has sold at the municipal tax sale. However, a tax sale may be set aside by the

During the redemption period, the purchaser of a property sold at the municipal tax sale may enter on the property for maintenance but may not dispose of the property.

council or the Supreme Court of British Columbia in certain circumstances. The setting aside of the tax sale

does not relieve the owner of the taxes owing.

All properties sold at the municipal tax sale are eligible for redemption.

The redemption period begins on the day of the tax sale and is one year in length. Redemption is successful when the former owner pays the collector the sum of:

- the upset price of the parcel at the time of the municipal tax sale;
- all costs of which the collector has had notice that have been incurred by the purchaser in maintenance of the property and in prevention of waste;
- taxes advanced by the purchaser; and,
- interest to the date of redemption on any amount in excess of the upset price and on the total amount expended by the purchaser in the bullets above during the period of redemption. These interest rates can be found on the [Interest on Property Tax Overpayment to Municipalities](#) webpage.

Less any fees prescribed under the [Land Title Act](#) that were collected for land title fees but not required for that purpose.

Redemption is successful if it is made before the redemption period ends. Parcels not redeemed before the end of the redemption period will be transferred through the Land Title Registry to the respective purchaser. There is no action that allows the former owner to redeem or recover the property sold after the redemption period ends.

Written Notice of Tax Sale and Redemption Period

After the tax sale, written notice must be given by the collector detailing the day of the sale and the day the redemption period ends. Section 657 of the *Local Government Act* requires this notice to be either served upon or sent by registered mail to the owner or persons registered on title in the land title office. **This notice must be given no later than three months after the sale of property at an annual tax sale.**

Extensions to the Redemption Period

An extension to the redemption period for a parcel of property can be granted when the property does not sell at the municipal tax sale.

An extension to the redemption period is only granted in the case where two specific criteria are met. These criteria are:

- the municipality has been declared the purchaser and the property has not been sold under section 650 of the *Local Government Act*; and,
- council, by bylaw, extended the redemption period for **one year only**.

Redemption Payments by Instalments

An owner may make redemption payments by instalments in the case where, the:

- municipality has been declared the purchaser and the property has not been sold under section 650 of the *Local Government Act*; and,
- owner or another person on behalf of the owner pays to the collector, on or before the redemption period ends the amount of 50% of the sum of:
 - the total amount of the upset price for which the land and improvements were offered for sale; and,
 - any interest on the upset price.

The collector must be paid the remainder of the outstanding amount at any time within 11 months and 21 days from the date the redemption period ends.

Taking Action to Have the Tax Sale Set Aside

The registered owner of the parcel of property put up for tax sale may bring an action in the Supreme Court of British Columbia to have the tax sale set aside and declared invalid.

This action may only be taken under specific circumstances. The qualifying circumstances are:

- the property sold at tax sale was not eligible for taxation during the years in which taxes imposed subsequently led to the tax sale;
- the taxes for the property sold at tax sale were fully paid;
- the collector did not give the person required the specified notice required by Section 657 of the *Local Government Act*.
- irregularities existed in connection with the imposition of the taxes for which the property was sold; and,
- the sale was not fairly and openly conducted.

An action may only be brought one month after the written notice detailing the grounds of complaint has been given to the council by the registered owner.

There may be circumstances where council finds that an error is made during the tax sale or proceedings before the tax sale. If so, the purchase price is returned to the purchaser together with interest at the rate prescribed, as directed by the council in accordance with the *Local Government Act*.

In the circumstance the court declares that irregularities existed in connection with the imposition of the taxes for which the property was sold, or that the sale was not fairly and

openly conducted; the court may decide to manage the taxes associated with the property sold at tax sale along with any taxes and interest incurred after the tax sale date according to the circumstances the court finds appropriate.

Best Practice Guidelines – Notification of a Property Owner Before Tax Sale

The *Local Government Act* sets out the process for a property tax sale. However, given the extraordinary individual consequences to property owners should their property be subject to tax sale, these guidelines provide advice to municipalities for any properties that have delinquent property taxes.

- The annual municipal tax sale must be conducted in accordance with the requirements in the [Local Government Act](#). Municipalities must be familiar with and meet all legal requirements prior to and after the tax sale or risk the tax sale being set aside.
- The notice requirements in the *Local Government Act* are the minimum statutory requirements a municipality must meet prior to and after the tax sale. Additional measures may be taken to ensure property owners are aware of the risk of a tax sale and how to avoid it.
- Section 647.1 of the *Local Government Act* requires specific notice to a property owner at least 60 days before the tax sale that includes:
 - a) the time and place of the annual tax sale;
 - b) the legal description and street address, if any, of the property subject to tax sale;
 - c) the amount of all taxes owing to the municipality on the property and the amount of interest to the date of the annual tax sale;
 - d) the upset price of the property for the purpose of the tax sale;

- e) a statement that, if delinquent taxes are not paid before the annual tax sale, the collector will offer the property for sale by public auction at the time and place stated in the notice; and,
- f) a statement that, if the property is sold at the annual tax sale, a right of redemption will remain in the owner or holder of the charge until the end of the redemption period.
- The municipality may also consider providing the following information about the tax sale to owners:
 - how to prevent the sale of their property;
 - how to redeem a property during the redemption period to prevent its transfer to the tax sale purchaser;
 - the associated dates for each step of the tax sale process;
 - the rights of the owner during the redemption period;
 - how and when to claim surplus funds from the tax sale if the property is not redeemed; and
 - how to claim surplus funds from the tax sale after the time frame to claim expires.
- The municipality may incorporate the following considerations into their tax sale process:
 - make notices in as plain language as possible in a large, easy to read font and ensure the wording in meets the legislative requirements;
 - provide information so that the property owner can contact the property tax department;
 - clearly state that the process can be halted at any time by payment of taxes outstanding and provide contacts and allowable payment methods;
 - consider including an additional warning of tax sale insert in a statement of outstanding taxes. A

warning should state clearly that the property will be sold at tax sale on the last Monday of September unless delinquent taxes are paid prior to the tax sale date; and,

- include instructions on how to file a written response to have the tax sale set aside through the legislated process.

The municipality may consider taking other measures to contact a property owner by phone, email, or have bylaw staff visit a property to initiate contact with the property owner if feasible.

The municipality should also document when both legally required notices have been published and provided and when additional notice has been provided and other attempts at contact have been made. This may include:

- the name of party contacted;
- the date of contact/non-contact;
- the mode of contact – e.g., phone, in-person, written correspondence, social media;
- any instances of returned mail/correspondence;
- whether an owner understands and acknowledges the risk of non-payment;
- any unusual behavior/response that may suggest a capacity issue; and,
- a flag indicating no successful contact as made.

A municipality may also wish to:

- consider establishing a policy or guides for staff that clearly outline the process legal requirements a municipality must meet, as well as additional measures that can be taken with an objective of avoiding loss of property to tax sale; and,
- seek legal advice if the owner(s) are deceased, imprisoned, institutionalized or missing.

Best Practice Guidelines – How Municipalities May Guide Property Owners During the Tax Sale Process

Municipal staff must balance the registered owner's autonomy and right to privacy against their capacity to understand the tax sale process. The first steps to take may be to:

- discover whether there is a mortgage or lien on the property. Where the property has an unencumbered title and property tax payments have suddenly ceased, this may be a sign that the registered owner(s) require guidance. If there are other liabilities present for the property, the owner may be delaying property tax payment in order to manage their other debts;
- ask the individual if there is a family member, lawyer or person with power or attorney that the municipality may contact on behalf of the person;
- send a statement of outstanding taxes to each holder of a registered charge on the property; and,
- contact each charge holder directly with regard to the property of concern.

If no competent party is identified to act on behalf of a registered property owner in order for the property taxes to be paid, the municipality may wish to make a referral of the [Public Guardian and Trustee](#) (PGT).

If a property owner is deceased, the PGT may *administer an estate when the executor, intestate successor, beneficiary, or other eligible person is not able or willing to do so*. The municipality may wish to consult the PGT if appropriate. More information about administering an unresolved estate is available on the [PGT website](#).

There are two criteria for investigation by the PGT: risk to assets and reason to believe a person is incapable.

Further criteria that must be satisfied on investigation in order for the PGT to take on guardianship include a determination of whether the registered owner can make use of other services or the availability of any other support.

The process by which the PGT becomes the statutory property guardian for an individual does not happen quickly. Given what can be a lengthy process, a municipality should make the [referral to the PGT](#) as quickly as possible.

An assertion or belief that an owner does not possess the financial means to avert the tax sale process must not deter municipal staff from consulting the PGT when they have reason to believe the owner qualifies for PGT assistance.

- Consider contacting the designated agency serving the [relevant regional health authority](#)¹ or [Community Living BC](#)² if staff discover information that indicates a property owner or person residing on the property who is not an owner may benefit.

Intervention by the PGT or other authority in of itself does not constitute legal authority for the municipal collector to deviate from their responsibilities for the property taxation process under legislation.

¹ B.C has five regional health authorities that deliver health services to meet the needs of the population within their respective geographic regions (Website): [Regional health authorities - Province of British Columbia \(gov.bc.ca\)](#)

² [Community Living BC Website](#)

Appendix 1: Municipal Letter Template to Property Owners with Delinquent Taxes

[Template Letter for Municipal Tax Collector]

IMPORTANT INFORMATION

Dear Property Owner:

Re: Delinquent Property Taxes and Municipal Tax Sale Public Auction Notice

TAX SALE of the property located at _____.

This letter is to notify you that the property located at the above address has delinquent property taxes owing in the amount to of [insert \$ amount] from the [insert year] tax year.

Failure to pay the above amount will result in additional costs and the eventual loss of the property located at [insert street address] at tax sale by the [insert name of municipality].

Tax sale means that unless the delinquent taxes are paid the municipality **must sell** this property at the municipal tax sale to be held at council chambers at 10:00a.m. on Monday the [insert date] of September, [insert year].

TO PREVENT TAX SALE

To halt the municipal tax sale process, including public advertisement of tax sale for the property located at [insert street address], please arrange payment of all delinquent taxes in the amount of [insert \$ amount] before the [insert date] of September, [insert year].

To avoid the property located at [insert street address], being **SOLD** at municipal tax sale, payment of the delinquent taxes must be paid to the [insert name of municipality] no later than 10:00a.m. **Monday, September [insert date], [insert year]**. You or any other person on your behalf may pay the amount of [insert \$ amount].

Accepted methods of payment include:

[list methods of payment]:

I encourage you to contact the [insert name of municipality] Finance Department at: [insert telephone number] to speak with our staff and identify how you may avoid your property being sold at the municipal tax sale auction.

AFTER THE TAX SALE

After the sale has been completed and should the property located at [insert street address], have been sold, there is a **one-year redemption period** during which the **ALL** property taxes owed to the current year, fees and interest must be paid, by you or any other person on your behalf, to redeem the property from tax sale and to regain your ownership of this property.

If the property is not redeemed during the redemption period, ownership of the property located at [insert street address], will be transferred to the highest bidder on **September [insert date], [insert year]**.

You may apply to have the tax sale set aside and declare the tax sale as invalid by bringing an action in the Supreme Court of British Columbia. An application may be made by submitting a written notice to the [insert name of municipality] council on the basis that at least one of the following circumstances existed:

1. The property was not liable to taxation during the years in which the taxes for which the property was sold were imposed; or,
2. The taxes for which the property was sold were fully paid prior to the tax sale; or,
3. The municipal tax collector did not provide the notice required under section 657 of the *Local Government Act*; or,
4. Irregularities existed in connection with the imposition of the taxes for which the property was sold; or,
5. The tax sale was not fairly and openly conducted.

Bringing an action in the Supreme Court of British Columbia may only be completed within a one-year period that begins effective [insert date of tax sale]. The setting aside of the tax sale by the Supreme Court of British Columbia does not relieve the property owner of paying the taxes owing on the property.

SURPLUS MONEY FROM THE TAX SALE

The winning bid at the tax sale may be greater than the **upset price** (the upset price is the minimum amount necessary to pay the required outstanding taxes and fees). If the property is not redeemed during the redemption period, you may request the difference between the winning bid and the upset price (a surplus) be paid to you or your representative. This request must be made in writing and mailed to the address below:

[insert mailing address]

Address Line 1

Address Line 2

Address Line 3

There is no guarantee that the winning bid will be near the assessed value of the property and therefore the surplus may not provide you with the market value of your property.

Surplus monies must be claimed within six months after the day the redemption period ends. After this time, these monies must be recovered through the British Columbia Unclaimed Property Society.

MORE INFORMATION

More information about municipal tax sale can be found online in the [Municipal Property Tax Sales: An Introduction and Best Practices](#) guide prepared by the Ministry of Municipal Affairs.

Again, I encourage you to contact our Finance Department, to speak with our staff at:
[*insert telephone number*]

Sincerely,

Municipal Collector
Finance Department
[*insert name of municipality*]



BRITISH
COLUMBIA

Ministry of
Municipal Affairs