

IMPACT ON PROPERTY TAX ASSESSMENTS TIMELINES IN ONTARIO IN RESPONSE TO COVID-19

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The Province of Ontario, municipalities and affected Boards and corporations are in the midst of dealing with emergency processes to aid property tax payees throughout Ontario in response to the COVID-19 outbreak.

The end of March is typically the deadline for appeals to the Assessment Review Board for each taxation year for most property types. In addition to appeals, based on Ontario's four-year assessment cycle, the assessment of all properties was scheduled to be released starting in Spring 2020. This assessment sets the value upon which taxes are based for the following tax assessment cycle (typically for four years).

In an unprecedented move, the Government of Ontario's passing of O. Reg. 73/20 has changed both appeal deadlines for the 2020 taxation year and the assessment cycle for the 2021 taxation year.

Appealing the 2020 Taxation Year

Requests for Reconsideration

If your property falls within the residential, farm or managed forests property class, an appeal cannot be filed with the Assessment Review Board unless a Request for Reconsideration ("RfR") has been made with the Municipal Property Assessment

Corporation ("MPAC"). Other properties within Ontario may also file an RfR prior to filing an appeal, though this step is not required. The RfR deadline is usually March 31 of the applicable taxation year.

Pursuant to O. Reg. 73/20 under the Emergency Management and Civil Protection Act, MPAC has stated that the deadlines to file certain RfRs may have been extended. Property owners can log into AboutMyProperty to learn their new deadline for submitting an RfR.

Appeal to the Assessment Review Board

On March 26, 2020, the Assessment Review Board acknowledged that O. Reg. 73/20 suspended limitation periods and procedural time periods retroactive to March 16, 2020. The Assessment Review Board has not addressed how O. Reg. 73/20 impacts appeal deadlines.

The Assessment Review Board, as of May 11, 2020, is permitting appeals to be filed by May 29, 2020.

Valuing the 2021 Taxation Year

Property taxation is based on the assessed value of properties and in Ontario those assessments are updated every four years. The last assessment update was in 2016 (the "2016 Current Value Assessment (CVA)"), with the Ontario government planning on completing the Ontario-wide reassessment in 2020 for the 2021 taxation year. This would have meant new assessments being issued beginning this Spring 2020.

Pursuant to O. Reg. 186/20, amending O. Reg. 282/98, the 2021 taxation year will be based on a January 1, 2016 valuation date. This means that existing appeals will include a deemed appeal for an additional year if they are not resolved by 2021. This change should assist in helping resolve the pre-existing backlog of municipal tax assessment appeals in Ontario.

Examples of Property Tax Relief Programs in Various Municipalities

The Government of Ontario has deferred the quarterly remittance of education property tax to school boards by 90 days with the hopes that municipalities would be able to pass

on property tax deferrals to their constituents. Many municipalities have created a property tax relief deferral program to aid its constituents during these times. For municipalities not listed below, please reach out to your municipality or Gowling WLG to find out what options are available for your property.

City of Ottawa

The City of Ottawa provided a grace period for payment of interim taxes to Wednesday, April 15, 2020.

The City of Ottawa also created an interest free 30-day payment grace period for all unpaid water bills issued before April 1, 2020, and a 30-day due date extension for all water bills issued between April 1, 2020 and October 30, 2020.

2020 Property Tax Hardship Deferral Program

On March 25, 2020, the City of Ottawa created the 2020 Property Tax Hardship Deferral Program for both residents and businesses that have an assessed property value of up to \$7.5 million. Property owners must apply before July 31, 2020. To qualify for the program, the applicant would need to demonstrate the following:

1. The property owner must have experienced financial hardship directly related to the COVID-19 pandemic;
2. Property taxes have been paid up to date before the March 2020 interim installment;
3. The property is either:
 - a) A taxable residential property with a residential structure; or
 - b) A taxable property assessed in the following tax classes; occupied commercial, shopping, office, industrial, multi-residential or new multiresidential class and have a total taxable 2020 property assessment value equal to or under \$7.5 million.
4. The Property owners is experiencing hardship in one or more of the following categories: temporary suspension of pay, loss of employment, excessive business revenue loss or temporary business closure, or another category of financial hardship related directly to the COVID-19 pandemic as determined in the sole discretion of the Chief Financial Officer.

The applicant will not qualify for the 2020 Property Tax Hardship Deferral Program if any

of the following apply or occur:

1. The property owners have received compensation from Business Interruption Insurance towards the payment of property taxes;
2. The property owners are enrolled in the Farm Grant Program of the Low Income People with Disabilities Tax Deferral Program;
3. False or inaccurate information is provided in the application to the City of Ottawa; or
4. Property owners with tenants do not pass on the deferral (if this is the case, all taxes, penalties and interest will become due immediately).

Qualified applicants will have both their interim 2020 taxes and final 2020 taxes deferred to October 30, 2020.

City of Toronto

The City of Toronto provided a 60-day grace period for property tax payments and payment penalties from March 16, 2020 for all customers, which ended on May 15, 2020. The City of Toronto utility bill relief also ended on May 15, 2020.

Toronto City Council intends to vote on May 28, 2020 on a proposed property tax payment deferral program. The program would permit impacted residential and business property owners with no other financial options to use an online application process to request additional time to pay their taxes without incurring late payment policies or interest charges during the six month period between June 1, 2020 to November 30, 2020. If passed without amendments, applicants would have to meet the following criteria:

1. The property owner must have experienced severe demonstrable financial hardship directly related to the COVID-19 pandemic in one or more of the following categories; prolonged suspension of pay or loss of employment, extreme business revenue loss or business closure, or another category of financial hardship related to the Covid-19 pandemic that have led to a pending insolvency or bankruptcy, as determined in the sole discretion of the Controller.
2. Applications must be accompanied by documentation or proof to demonstrate severe financial hardship, as set out in Schedule 1 below, or as otherwise deemed acceptable proof in the sole discretion of the Controller.
3. All property taxes must have been paid up to date before the March 2020 interim installment.
4. The property must be either:

- a. A taxable residential property with a residential structure; or
 - b. A taxable property assessed in the following tax classes; occupied commercial, residual commercial, shopping, office, industrial, multi-residential or new multi-residential class and have a total taxable 2020 property assessment value equal to or under 10.0 million.
5. Property owners may apply for the deferral at any time between June 1, 2020 and October 31, 2020. Applications received and approved before July 31, 2020 will be eligible to have late payment penalties and/or interest amounts added to the tax account in June and July waived, as well as any penalties or interest incurred up to November 30, 2020. Applications approved after July 31, 2020 will be eligible to have late payment penalty or interest amounts waived from the date the application is approved, and up to November 30, 2020.
 6. Late payment penalties and interest charges will only be waived where payment in full for all property taxes owing for the year has been received by November 30, 2020. Where any portion of property taxes remain unpaid after November 30, 2020 (excluding any supplementary or omitted taxes that may have been levied for the year and which are not yet due), any late payment penalty or interest charges incurred will remain due and payable on the account.
 7. The property will be ineligible for a waiver of late payment penalty or interest charges if false or inaccurate information is provided in the application. Eligibility for inclusion in the program will be determined at the time the application is first approved and changes in financial circumstances before November 30th will not affect eligibility.

City of Waterloo

The City of Waterloo is in the process of developing an application-based property tax deferral program to extend 2020 final property tax due dates by 60 days for residents and businesses who qualify. Requirements to qualify for the program have not yet been determined.

The City of Waterloo will continue to waive penalty and interest on property taxes for the month of June 2020. The City of Waterloo will also waive late payment charges on utility bills and miscellaneous receivable invoices for the month of June 2020.

All collection efforts have been suspended until August 31, 2020, though penalties and interest may begin to apply on July 1, 2020.

City of Kitchener

The City of Kitchener is waiving penalties and interest on property taxes for April, May, and June 2020. Late payment fees for payments due in April, May, and June 2020 for utilities will not be charged.

The City of Kitchener will also be launching an application-based property tax deferral program in June 2020. The City of Kitchener states that the program will allow residents and businesses to apply to extend 2020 final property tax bill due dates by 60 days.

City of Mississauga

The City of Mississauga deferred property tax due dates by 90 days to help ease the economic impact of COVID-19 on both residential and commercial properties. This pushed the April, May and June 2020 interim property tax due dates to July, August and September 2020.

The City of Mississauga deferred stormwater charges by 3 months. The Region of Peel is also allowing residents to delay paying their water bills between April 1 and June 30, 3030.

With changes occurring daily in response to COVID-19 it is vital that all property tax planning is done with the most up-to-date information. Gowling WLG is pleased to assist with any property tax appeals and deferral applications required during these trying times and recommend that these deadlines are scrutinized in an in depth manner.

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