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Date: November 6, 2017

To: Mayor and Council

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RE: Recent Legislation Changes per Bill 68, Modernizing Ontario's
Municipal Legislation Act, 2017

Report No.: FS-2017-21

AIM

To provide council with information regarding recent legislation changes per Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2017*.

BACKGROUND

On May 30, 2017, Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2017* ("MOMLA") passed third reading and received royal assent. One of the major changes is the reduction in the time in which the tax registration process can begin on a property. Previously, a tax arrears certificate could be registered on a property if there were 3 years of arrears owing on January 1st of the current year. For example, On March 21, 2017 the Town of Kingsville started the tax registration process for 9 properties which had 2014 tax balances. Recent changes to the legislation now allow a tax arrears certificate to be registered if there were 2 years of tax arrears owing on January 1st of the current year.

The second major change in *MOMLA* is in regards to the payment out of court. Previously, after a tax sale was completed, municipalities would make a payment into court for any monies paid above the cancellation price. Under Section 380 (4) & (5) of the *Municipal Act, 2001*, interested parties had one year from the date of payment into court to apply for a payment out of court for the amount that they are entitled. Under Section 380 (6) of the *Municipal Act, 2001*, if no one has made application for any of those surplus funds within the one-year period then the surplus funds are forfeited to the municipality. Due to the legislation changes, Section 380 (6)(b) and 380(6.1)(b) will be repealed. The funds will no longer be forfeited to the municipality and the municipality cannot make an application for payment out of court for surplus funds. According to *MOMLA* 63 (6)5, interested parties can apply for payment out of court up to ten years after the payment into court was made. After ten years, any funds remaining are forfeited to the Crown, and the Public Guardian and Trustee may apply (*MOMLA* 63(6)(8) and(9)). If a tax arrears

certificate was registered prior to this coming into force, the municipality may still apply for the excess funds one year after the payment into court.

DISCUSSION

Each year, the Town of Kingsville submits a Financial Information Report (FIR) to the Province. The Ministry of Municipal Affairs and Housing (MMAH) reviews the information and provides feedback using key performance indicators. One of the key performance indicators that they review is the Total Taxes Receivable as a Percentage of Total Taxes Levied. MMAH defines Low Risk as having a percentage less than 10%, Moderate Risk as 10-15%, and High Risk as greater than 15%. The Town of Kingsville's Total Taxes Receivable is in the low risk range as indicated in the chart below:

	2016	2015	2014
Annual Tax Levy	\$32,259,425.70	\$ 30,268,491.45	28,826,473.83
Amount Owning as of Dec 31	\$1,799,881.19	\$1,592,269.35	\$1,677,476.72
% of arrears to levy	5.58%	5.26%	5.82%

The tax sale process is used to collect tax receivables on a property. The Town of Kingsville sends arrears notices the month following a due date for any accounts that have a past due balance. In September and December, letters are included with the arrears notices and mailed to properties that will be eligible for the tax registration the following calendar year. In February, a final notice and letter is sent via registered mail for eligible properties. The majority of property owners will pay at least the minimum (penalty plus third year of arrears) to avoid registration. A small percentage of properties will make it to the actual tax registration process. The property owner has one year from the date of the tax registration to pay the arrears in full to avoid a tax sale of the property. If a property is registered, the associated costs will be charged back to the tax roll. The tax registration costs may accumulate to over \$5000 during the full process. Historically, few properties have been sold by tax sale in the Town of Kingsville. The chart below shows the number of properties that have been eligible for tax sale, and then the number of properties that are actually sold by tax sale.

	2016	2015	2014
Properties that will be eligible for tax sale at the beginning February	43	37	40
Properties registered – March or April	19	3	12
Properties with valid extension agreements	3	0	0
Properties that paid arrears in full prior to tax sale	12	3	12
Properties eligible for public tax sale	4	0	0
Properties sold by public tender	2	0	0
Properties defaulted on extension agreement - still processing through tax registration procedures	2	0	0

Bill 68 allows a municipality to reduce the time that a municipality can register a property for tax arrears. This is not a mandatory requirement and is left up to the discretion of the municipality.

Below is a comparison of the number of properties and amount of arrears outstanding for the current process and the reduced timeline process:

Status Quo - Register Property after 3 years of arrears owing			
	2016	2015	2014
Total Arrears as of Dec 31	\$ 1,799,881.19	\$ 1,592,269.35	\$ 1,677,476.72
Total number of properties	2,665	2,686	2,723
Number of Eligible Properties with 3 years of arrears	57	50	47
Total Tax Arrears on Eligible Properties - 3 years in arrears	\$ 496,636.58	\$ 429,528.02	\$ 442,826.00
Portion of tax/penalty that is 3rd year of arrears owing	\$ 100,941.17	\$ 99,436.44	\$ 118,709.66

Reduced Timeline Process - Register Property after 2 years of arrears owing			
	2016	2015	2014
Total Arrears as of Dec 31	\$ 1,799,881.19	\$ 1,592,269.35	\$ 1,677,476.72
Total number of properties	2,665	2,686	2,723
Number of Eligible Properties with 2 & 3 years of arrears	195	230	228
Total Tax Arrears on Eligible Properties - 2 & 3 years in arrears	\$ 1,090,346.65	\$ 1,282,384.01	\$ 1,177,466.27
Portion of tax/penalty that is 2 & 3 year of arrears	\$ 527,963.54	\$ 584,941.99	\$ 564,800.99

Benefits of reducing the timeline:

- The Town may collect tax arrears sooner for some properties.
- The Town will have an increased cash flow.
- Property owners will have less taxes and interest/penalty owing, which will hopefully make it easier to pay arrears.

Negative Impacts of reducing the timeline:

- The interest/penalty revenues will decrease, as arrears need to be paid in a shorter period.
- The number of warning notices sent will increase, resulting in an increase of costs estimated to be \$1230. These costs include:
 - Staff time to pull the arrears and include the warning letter
 - Staff time to respond to phone calls regarding the warning letters
 - Costs to print warning letters
 - Postage costs will not increase as notices are sent with the regularly scheduled arrears notices.
 - Registered mail costs for notices sent in February are recovered through the tax roll.
- The number of properties that are registered may increase as the total number of properties eligible is increased.
- The tax registration process is costly.
 - Expenses related to the registration may total to over \$5000
 - The property owner must pay these expenses including arrears to cancel the registration, or
 - If the property goes to tax sale, the successful tenderer pays these costs.

As The Town of Kingsville's Tax Receivables are currently in "Low Risk", reducing the time line will have little impact for our FIR key performance indicator. Cash flow is not a problem that the Town faces currently.

Staff time and resources may be better utilized for assessment base management (ABM). ABM is a range of activities focusing on property assessments. The goal is to monitor and audit property assessments to ensure they are fair and accurate. ABM also prevents loss of the Town's assessment base.

The tax registration process may always be revisited in the future if economic situations change.

LINK TO STRATEGIC PLAN

To encourage leadership and management that will provide the direction to achieve our goals and maximize the effectiveness of our strategies.

FINANCIAL CONSIDERATIONS

Fees associated with the tax registration are recoverable through the tax roll. If the tax registration time line is shortened, the amount of staff time spent on sending notices and responding to inquiries will increase, at an estimated cost of \$1230 per year. Interest and Penalty revenues will decrease due to the reduced amount of time that arrears can be accumulated. The Town will see an increase of cash flow as property owners pay the taxes in a more timely fashion to avoid the registration process.

CONSULTATIONS

Sandra Zwiers, Director of Financial Services

RECOMMENDATION

That council recommend the continuation of the existing 3 year tax registration process.

Linda Brohman

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Tax Collector

Sandra Zwiers

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Director of Financial Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
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