

TAX SALES

Frequently Asked Questions

What is a Tax Sale?

Under Part 6 of the Municipal Government Act Chapter 18 of the Acts of 1998, Province of Nova Scotia, the real property of a taxpayer is subject to a lien for taxes. If taxes are not paid after June 30 in the year immediately following the taxation year to which the taxes relate, tax sale proceedings leading to the eventual sale of the property can commence.

What are the steps followed to complete a tax sale?

1. A tax bill is issued. If the tax bill is not paid by June 30th of the following year, or satisfactory arrangement made to that effect, tax sale proceeding can commence.
2. A tax sale list is prepared which contains the name and address of the person assessed, a brief description of the land to be sold sufficient to identify it, the amount of arrears, including interest, and the years in which the arrears were first levied.
3. A preliminary notice is then sent by ordinary mail to owners of property listed on the tax sale list advising them that they have not paid their taxes and giving them a minimum of 14 days from the date of the notice in which to pay the bill before tax sale procedures are commenced.
4. At any time after the expiration of the preliminary notice period, a title search must be done. The cost forms part of the expenses of the sale. A survey should be ordered if the Treasurer considers it necessary to properly identify and describe the land.
5. After the title search, formal notice that the property could be sold for arrears is sent to the property owner(s). The Municipality, at that time, will also notify any other owners with an interest in the property as shown in the title search.
6. The formal notice will contain the amount of arrears of taxes and interest calculated to the date of the sale, other rates and charges and an estimate of the costs which could be expended if the tax sale procedures are continued. The title search, survey fees, advertising costs, and the costs for notices are all expenses that a municipality can recover at the tax sale. The notice must also state that the property is liable to be sold unless the arrears, interest and expenses are paid within sixty (60) days. The notice will also advise that the tax payer may wish to seek legal advice.
7. If the amount is not paid prior to the expiration of the 60 day period, the property is advertised for sale by auction. There must be at least two advertisements in a local newspaper: once at least thirty days immediately prior to the sale and once during the thirty days prior to the sale. If the land is to be sold at tax sale, payment at the tax sale must be by cash, certified cheque, money order, bank draft or lawyer's trust cheque.

What happens on the day of the Tax Sale?

1. The tax sale must be held at the place and on the date and time indicated in the advertisement.
2. The Municipal Clerk will review the properties to be sold at tax sale. (Quite often, once the properties are advertised for tax sale, a number of property owners will pay the outstanding arrears and other rates and charges, and those properties will be deleted from the sale).
3. The Municipal Clerk will announce that the purchasers of property at tax sale will be responsible for paying the costs to prepare and register the certificate of sale and the tax deed.
4. Properties that have the right of redemption should be identified prior to the sale.
5. Properties are sold in the same order as they are listed in the advertisement.
6. The opening bid on each property will be the amount of taxes, other rates and charges, interest and expenses outstanding at the commencement of the sale unless Council directs the Municipal Clerk that some lesser amount is acceptable where there is a chance that the total outstanding may not be recovered.
7. Payment of the taxes, other rates and charges, interest and expenses must be made by cash, money order, certified cheque, bank draft, or lawyers trust cheque immediately following the sale of each property. If the purchaser cannot pay immediately and in the required form, the property will be opened for bids again.
8. The balance of the purchase price in excess of the taxes, other rates and charges, interest and expenses, if any, has to be paid within three business days or the property is to be listed again. Full payment from the purchaser also must be by cash, money order, certified cheque, bank draft, or lawyer's trust cheque.
9. A Certificate of Sale on each property sold at tax sale must be registered in the Registry of Deeds within 10 days of the sale.
10. A Tax Deed will be issued within a reasonable time on all properties sold at tax sale with more than six (6) years taxes outstanding.
11. Properties sold at tax sale with six (6) years or less outstanding taxes will be subject to a six (6) month redemption period prior to a tax deed being issued.

What is the "Right of Redemption" associated with a Tax Sale?

1. For properties sold at tax sale with six years taxes or less outstanding, the right of redemption exists. As the tax sale is a public auction, the property goes to the highest bidder. If the owner of the property is not the highest bidder on the day of the sale, the redemption provisions of the Municipal Government Act can apply.
2. The right of redemption exists for up to six (6) months after the tax sale. The right to redeem may be exercised by an owner of the property, the holder of a mortgage or other lien, or a person with an interest in the land.

3. To redeem, the person redeeming must pay:
 - (a) the sum paid by the purchaser (less any surplus remaining after paying the taxes, interest, expenses and other charges
 - (b) interest at 10% per annum on the total amount paid by the purchaser
 - (c) taxes and interest for the next fiscal year after the sale
 - (d) the recording fee for the certificate of discharge
 - (e) all fire insurance premiums paid by the purchaser
 - (f) all sums paid by the purchaser for necessary repairs to the property (so long as those repairs were approved by the Treasurer in writing)
 - (g) less any rent or other income earned by the purchaser from the property

What happens to the proceeds of a tax sale that are beyond those amounts required to pay the taxes, other rates and charges, interest and expenses?

1. If bidding on a property at a tax sale results in the Municipality receiving funds in excess of what is required to recover its taxes, other rates and charges, interest and expenses, those funds are placed in a "tax sale surplus account".
2. Funds from a Municipality's tax sale surplus account can only be dispensed by a Court Order.
3. An application to Court to pay out the tax sale surplus will usually be made by the former owner, but might be a trustee in bankruptcy, or some of the heirs of a former owner. None of the surplus is paid out until the redemption period, if there is one, has expired.
4. The Municipality remains liable to a person entitled to the surplus for 20 years.

What is clearing title and what role does it play in tax sales?

- 1) Properties are sold at tax sale for arrears of taxes only. An owner, however, may let his/her property go to tax sale to clear title.
- 2) Once the Municipal Clerk/Treasurer has advised those at the tax sale of the property to be sold and the particulars associated with that sale, the owner may announce to those present that he/she has allowed the property taxes to go into arrears on purpose and request that no one bid on the property, however, others cannot be prevented from bidding if they wish to as it is a public auction.
- 3) The point of the announcement is to deter the bidders since the person attempting to clear title will presumably redeem the property immediately if there are other bidders.