

# Tax Enforcement Procedures Manual

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## INTRODUCTION

The purpose of this manual is to provide assistance to municipalities when taking action under *The Tax Enforcement Act*. The manual outlines each step in the process, from listing the lands in arrears through to disposal of property.

It is important that procedures be strictly followed in order to protect the rights of both property owners and the municipality. The responsibility to ensure proper procedures are followed lies with the municipality. The registrar is not responsible for "any losses or damage sustained on account of an error made by a municipality in the acquisition of title" (Section 29, *The Tax Enforcement Act*).

All statute section references in this manual, unless otherwise stated, are to *The Tax Enforcement Act* (the Act). However, this manual is not a substitute for the Act and it is important to consult the legislation.

## SEARCHING FOR A TITLE

Correct legal land descriptions are important in all phases of the tax enforcement procedure and care should be given to obtaining these descriptions.

Where legislation requires that the treasurer **requisition from the registrar a search** of the title, the treasurer may obtain a copy of this search in one of two ways:

1. Contacting Information Services Corporation (ISC) and requesting a copy of title; or
2. Using the ISC website to search for a title.
  - Log in to the ISC Web site, [www.isc.ca](http://www.isc.ca)
  - Under 'Land Registry' on the left side of the screen (also located on the bottom portion of the screen), click on 'Quick Search' (this type of search returns only live active titles and will allow you to obtain all information required for tax enforcement)
  - In the 'Search By' field, click the drop-down arrow and select the item you wish to search by (you can search by Land Description, Owner Name, Parcel Number or Title Number)
  - Enter the relevant search criterion and click 'Search'

**Note: you can verify the applicable fees for searching by clicking on the "\$" signs located throughout the search screens**

Performing a search for title will ensure that tax enforcement proceedings are not delayed because of incorrect legal description, registered owner(s), or title number.

## STEPS IN TAX ENFORCEMENT

The process of tax enforcement encompasses a number of interrelated steps which are separate and distinct.

1. Preliminary steps protect the municipality's interest in the land.
2. The municipality may undertake steps to acquire title to the land in settlement of the tax arrears.
3. After the land is acquired, the municipality must try to convert the land into cash.

The objective of preliminary steps is to protect the municipality's interest in the land and serves to provide notice of that interest to all parties having a current or future interest in that land. In summary, these preliminary steps are:

1. prepare a list of lands with arrears of taxes;
2. advertise the list; and
3. register the municipality's interest on the title.

This manual refers to a number of prescribed and non-prescribed forms to facilitate tax enforcement processes.

- Prescribed forms are identified alphabetically. Forms A to H may be found in *The Tax Enforcement Regulations* (the Regulations).
- Non-prescribed forms are identified numerically. These forms have been developed by Government Relations and they have no legislative authority. Forms 1 to 9 may be found on the Ministry's website.

### **Protecting the Municipality's Interest**

#### ***Preparation of List of Lands in Arrears (Section 3)***

Annually, the treasurer must prepare a list of lands on which the taxes have been in arrears. Property taxes are in arrears if they are outstanding after December 31. The list of lands in arrears (the list) will contain the following information for each parcel of land:

- the assessment number;
- the legal description;
- the title number;
- the amount of arrears.

Form 1 (non-prescribed) can be used to prepare the list.

- The list can be prepared as early as January 1, and it must be prepared early enough to permit time to present to the head of council (the mayor or the reeve) no later than November 15.
- The list must be prepared in duplicate. One copy is filed with the clerk/administrator, and the other is filed with the treasurer.

In preparing the list, the following should be considered:

1. In order to encourage payment of taxes the treasurer may write taxpayers notifying them of impending steps to be taken by the municipality. The letter may inform taxpayers that these steps can be avoided if all or part of the arrears are paid by a certain date.
2. Verify municipal records to ensure the accuracy of the legal description of the property and the title number. This may be done with a Quick-Search of land records at ISC.
3. Land always includes improvements whether or not any buildings, parts of buildings, structures or fixtures located on the land belong to the person having title to the land.
4. Penalties applied to arrears of taxes are included in the amount owed to the municipality.
5. Land subject to distress or other tax collection procedures such as seizure of goods or assignment of rent may be included in the list.
6. If the parcel already has a valid tax lien registration, the land is not included in future lists.
7. Crown lands are not included in the list .
8. Lands registered in the name of the municipality may be included in the list. If title is reissued in the name of the municipality, this will have the effect of removing earlier encumbrances, with the exception of those interests noted in Section 27.
9. Land may be placed on the list and dealt with pursuant to this Act whether or not buildings, parts of buildings, structures or fixtures on the land belong to the owner of the land, where taxes are in arrears with respect to either the land or the buildings, parts of buildings, structures or fixtures. This does not apply to house trailers situated in urban or northern municipalities.
10. Council may exercise discretionary authority to exclude properties from the tax enforcement list if the arrears are less than ½ of the previous years levy. The levy for hail tax is considered as part of the previous year levy. The resolution should be passed early enough to enable the treasurer to meet the deadline to present the list to the head of council. If a resolution is passed, all affected properties must be excluded from the list.

### ***Suggestion:***

A resolution acknowledging the list as presented to the head of council could be passed at a council meeting. This will document the treasurer's compliance with Section 3

### ***Advertising the List (Section 4)***

After the list is submitted to the head of council, the treasurer must prepare a Tax Enforcement List in Form 2 showing the estimated cost of advertising along with the amount of arrears and any penalties. Form 2 contains the following information:

- a warning that a tax lien will be registered against lands with arrears of taxes unless the arrears and advertising costs are paid by a certain date;
- the legal description of each parcel of land;
- the title number;
- and for each parcel of land:
  - the amount of tax arrears;
  - the costs of advertising;
  - the total tax arrears and costs.

Although Form 2 is non-prescribed, it is important that it parallel the prescribed form to register the tax lien. Therefore the Treasurer should indicate both the legal description and title number for each property when advertising the list

The costs of advertising charged against each parcel are determined by dividing the total estimated cost of the advertisement by the number of parcels on the list.

- Since the amounts charged against each parcel must be included in the list, it is important to get close estimates from the newspapers.
- The charges are not allowed to be more than the actual cost so the estimates should not be high.
- If the estimates are low, the additional costs may be included as other costs against the property.

The tax enforcement list must be advertised in the following manner:

1. Publish in one issue of a newspaper published in the municipality.
  - If there is no newspaper published in the municipality, the list must be in a newspaper:
    - published in Saskatchewan, and
    - selected by resolution of council.
2. Post one copy of the list in the treasurer's office for a period of at least 60 clear calendar days.

All of the above notices must contain a notification that unless arrears and costs are paid within 60 days of the date noted, the treasurer will proceed to register a tax lien.

***Note:***

Council does not have authority to dispense with advertising the tax enforcement list.

As soon as the list is advertised, the advertising costs should be added to the municipal tax arrears on the tax roll.

It is no longer a requirement to advertise the list in the Saskatchewan Gazette.

Partial payment of arrears and costs does not prevent a lien from being registered. Subsection 3(1) indicates that the Act applies to land when the whole or a portion of the taxes are unpaid and subsection 10(1) indicates that a lien shall be filed against the title of every parcel of land included in the list published and against which the taxes are in arrears at the time of application to the registrar.

***Registration of the Tax Lien (Section 10)***

Tax liens are registered against titles at Land Registry.

Sixty days after advertising the list, the treasurer must forward to the registrar an application for interest registration along with a properly completed "Tax Lien" (Form A). The lien must be forwarded not later than January 31 next following.

This form must contain only those lands on which the arrears and costs (as published in the newspaper) have not been paid in full.

Add the cost to register the tax lien to the arrears of taxes against each applicable parcel of land.

If the municipality discovers that it omitted a parcel of land which should have been advertised, the municipality will:

1. prepare Form 1 identifying only those lands which were not included on the first list;
2. present Form 1 to the head of council;
3. advertise the list in Form 2; and
4. if the arrears and costs remain unpaid after 60 days, register a tax lien against those lands using Form A.

***Note the following when preparing the tax lien:***

If mailing in the packet to ISC prepare the list in duplicate (one copy is submitted to ISC, one copy is for your files). ISC will not return the packet. One copy of the list needs to be prepared if faxing or mailing the packet;

List the land by description and title number only (do not show the arrears of taxes and costs);

Sign and affix the municipal seal to the tax lien; and

Submit the one copy of the "Application for Interest Registration" along with Form A "Tax Lien" to the Registrar no later than January 31.

The registrar will register the interest based on the tax lien, noting on the form the date of registration and the interest number assigned to the lien. When the packet(s) registers, ISC will automatically send a verification notice to:

- the submitting party (i.e. a lawyer, if the municipality has contracted a lawyer to perform tax enforcement proceedings on behalf of the municipality),
- the municipality, as holder of the interest, and
- the owners of the titles affected.

The treasurer shall record this information on the "Tax Roll" and "Tax Enforcement Record" (Form 3) for each property.

***Suggestion:***

Set up a separate file for each property on which a tax lien is filed and keep copies of all tax enforcement forms, correspondence, invoices, records, notations of phone calls, and any other information relating to the property.

Prepare a separate "Tax Enforcement Record" (Form 3) for each parcel of land against which a tax lien has been registered. Record the date when the municipality may begin proceedings to apply for title. Diarize this date for ease of reference.

It is suggested the municipality should acquire a rubber stamp seal. Council should pass a resolution to authorize the use of the rubber seal on official documents. All packets submitted to Land Registry are imaged on to a computer, and stored in an image library, which may not recognize an embossed seal. The packet may be rejected if the seal is not clearly visible.

### *Withdrawal of a Tax Lien (Section 19)*

The municipality must remove the tax lien if the owner or anyone pays *all* of the following to the treasurer:

- (a) The arrears of taxes and penalties (the current taxes are not required to be paid for removal of a tax lien). Make sure that the arrears of taxes include the costs:
  - to advertise the tax enforcement list in the newspaper, and
  - to register the tax lien.
- (b) Other costs, such as:
  - (i) Any expenses incurred while proceeding with tax enforcement such as postage, ISC fees, payments made to process servers to deliver notices, telephone expenses and additional advertising costs;
  - (ii) Insurance premiums paid by the municipality;
  - (iii) All legal and administrative costs incurred by the municipality, including reasonable amounts to reflect the time expended and costs incurred by employees of the municipality who act in a legal or administrative capacity and subject to the regulations, costs incurred with a law firm or collection agency;
  - (iv) Repair and maintenance to buildings, structures and fixtures;
  - (v) Cleaning, including the cleaning of environmental contamination; and
  - (vi) Fee paid by the municipality to the Provincial Mediation Board under *The Provincial Mediation Board Act*.

***Note:***

If **all arrears and costs** have been paid, the tax lien must be removed. A tax lien remaining on the title in error is invalid and must be removed before enforcing collection of new arrears.

- The lien is not withdrawn if only partial payment is made.

The costs included in Part (b) are to be separately recorded on the tax roll as soon as the costs are incurred.

Any costs and expenses are considered part of the arrears. Therefore, the costs and expenses will be subject to the penalties stipulated in the municipality's penalty bylaw.

All payments made with respect to the land are to be first applied towards the payment of the costs included in (b).

The treasurer shall forward to the registrar an "Application for Interest Discharge" along with a properly completed "Withdrawal of Tax Lien" (Form B) to Land Registry if all arrears and costs under Section 19 have been paid.

Update tax roll and Form 3 by entering the date on which the tax lien was removed.

## **Proceedings to Request Title (Section 22)**

The second phase of tax enforcement involves a number of steps enabling the municipality to request title to land with arrears of taxes.

- Council passes a resolution to authorize proceedings to request title to a parcel of land.
- Depending upon the assessed value of the property and certain other factors:
  - One or more prescribed notices will be sent to certain parties.
  - The municipality may need to obtain approval from the Provincial Mediation Board prior to requesting title.
- Council authorizes acquisition of the title in settlement of tax arrears.

### ***Authorizing Proceedings to Request Title***

Six months after the tax lien has been registered the council may authorize the treasurer, by resolution, to start proceedings for title. Council now has discretionary authority to delay authorization of proceedings until such time as council deems it appropriate to begin.

In certain situations council may apply to the Provincial Mediation Board (the Board) to start proceedings earlier than the six-month waiting period immediately following the registration of the tax lien. The Board may approve the request if it is satisfied that one or more of the following exists:

- (a) building deterioration may occur if action is not taken;
- (b) the property value is very low;
- (c) the clean up costs of the property are high relative to the property value;
- (d) the tax arrears are high relative to the value of the property; or
- (e) the owner has abandoned the property.

To exercise this option:

1. Council must pass a motion to apply to the Board for a reduction of the waiting period.
2. The municipality applies for consent from the Board using Form 9.

After council authorizes proceedings for title, the treasurer has authority to carry through the procedures until the municipality is ready to request ISC to transfer the title. Tax enforcement proceedings should be suspended only if council passes a resolution to that effect.

At any point the land can be redeemed by any person paying the arrears and costs as specified in Section 19. This will stop the tax enforcement process and the tax lien will be withdrawn.

### ***Property owned by a Farmer***

When tax enforcement action is being taken on any property owned by a farmer, regardless of location or use, the municipality must ensure compliance with *The Farm Debt Mediation Act* (the FDMA). The FDMA may be viewed at <http://laws.justice.gc.ca/en/F-2.27/index.html>.

The FDMA describes a “farmer” as any individual, corporation, cooperative, partnership or other association of persons engaged in farming or commercial purposes and that meets any prescribed criteria within that legislation. The sole determining factor is whether or not the owner of the subject property is a farmer.

Section 21 of the FDMA requires the municipality to serve “**Notice of Intent to Realize on Security**” to the owner and to the Farm Debt Mediation Service (the FDMS). The “Notice of Intent” should be served immediately before or at the same time Form C is served.

Service of this notice must meet FDMS requirements.

- The owner must be served by registered mail, priority post or courier – that is, a method that can be tracked and signed for. It is deemed served after 7 days. It is important to use the most current form to serve notice. To ensure this contact the FDMS at:
  - Phone 1-866-452-5556 or 306-780-5544
  - Fax 306-780-7353
  - 301-2010 12th Avenue, REGINA SK S4P 0M3
- The copy of the ‘Notice of Intent’ to the FDMS may be faxed or posted by regular mail.

The municipality is required to issue a new “Notice of Intent” if:

- The municipality and the owner enter into an arrangement for payments to retire the arrears and costs;
- The owner makes one or more payments in accordance with this arrangement; and

- The owner subsequently defaults on the arrangement.

This does not affect the tax enforcement process timeline unless the farmer files for a “Stay of Proceedings” with the FDMS.

***Assessed Value \$17,500 or Less (Section 26)***

To proceed under this section all of the following conditions must be met:

- as of the date of the council resolution to start proceedings for title the taxable assessed value is \$17,500 or less;
- no payment of taxes has been made in the two years immediately preceding service of the Form C"; and
- no person is residing on the parcel.

***Note:***

If the conditions outlined above change at any time during the process, use procedures for taxable assessed value over \$17,500.

For parcels of land which meet the criteria specified, the following forms will be required:

- Form C – the “Six Month” notice
- Form H – Request for Registrar to Issue Title
- Affidavit of Value (to form part of Form H)

Each step is explained in further detail as follows.

If a parcel valued at less than \$17,500 is tied to another parcel resulting in a value of greater than \$17,500, use the procedures for assessed value over \$17,500.

***Six Month Notice (Assessed Value under \$17,500) (Sections 23 and 26)***

Form C – the “Six Month” notice will be served on the assessed owner as soon as possible after council authorizes proceedings to request title to land with arrears of taxes.

**The treasurer shall:**

1. Get a copy of the title from ISC.
2. Prepare Form C. Use the land description as it appears on the title.
3. Serve Form C to the assessed owner by registered mail or in person.
4. Prepare Form D – the Certificate as to Assessed Owner and Value.
5. Prepare Form E – the Declaration of Other Services Made if Form C is served by registered mail and attach the receipt from the postmaster for the registered letter.
6. If the treasurer delivers the notice personally, service is deemed to have been made when the notice was personally delivered.
  - Form F – the Affidavit of Personal Service must be completed for each notice served in person.
  - Swear or affirm the affidavit immediately because of possible changes in personnel.

***Note:***

When the taxable assessed value is \$17,500 or less serve Form C only on the assessed owner.

Form C is to be served by personal service or registered mail. If the same person is to be given notice for more than one parcel, it is sufficient to mail only one notice with respect to all parcels, however, if the treasurer chooses to send more than one notice to the same person, they must be mailed separately.

Form ‘C’ may be modified to include multiple parcels

The date the notice is deemed to have been served is the date on the postmaster's receipt. The receipt must be attached to Form E.

None of the forms above are forwarded to Land Registry. These documents are retained in the tax enforcement file for that property.

If the assessed owner agrees with the municipality to pay the tax arrears over a period of time, Council may, by resolution, suspend tax enforcement proceedings.

- If the owner fails to honour the commitment,
  - council should be advised in the event it wishes to reconsider its resolution to suspend proceedings.
  - If the owner is a farmer, the municipality must issue a new “Notice of Intent” to the FDMS – see the section “Property Owned by a Farmer”.

***Apply to Registrar for Transfer of Title (Assessed Value under \$17,500) (Section 26)***

If the arrears and costs are not fully paid within 6 months after Form C is deemed served, council may authorize the treasurer to proceed with title acquisition.

The treasurer will apply to the registrar to transfer the title by submitting the following:

- For **single title** transfer
  - Application for Transfer (Single Title)
- For **multiple title** transfer:
  - Application for Transfer (Part I: Surrender); and
  - Application for Transfer (Part II: Setup).
- Form H – Request to Registrar to Issue Title; and
- Affidavit of Value" (to form part of H) (this form requires an estimate of market value, not the taxable assessment, all other forms use the taxable assessment). The assessed value determined by SAMA may be used as a guide to market value.

The title issued to the municipality will be free of encumbrances, with the exception of those identified in section 27.

***Note:***

Consent of the Provincial Mediation Board is not required when the taxable assessed value is \$17,500 or less.

***Six Month Notice (Assessed Value over \$17,500) (Section 23 and 26.1)***

Form C – the “Six Month” notice will be served on the assessed owner as soon as possible after council authorizes proceedings to request title to land with arrears of taxes.

If the property is owned by a farmer, serve the Notice of Intent to Realize on Security at the same time as the six month notice. (Refer to “Property Owned by a Farmer”, page 11)

For parcels where the taxable assessed value is over \$17,500 the following steps are required.

The treasurer shall:

Get a copy of the title(s) from ISC.

Prepare Form D – the Certificate as to Assessed Owner and Value.

Prepare Form C. Use the land description as it appears on the title.

***Suggestion:***

A list of the names and addresses of all parties being notified could also be provided to each party when the notices are being served.

Those persons served with the six month "Notice" (Form C) will include:

- Registered owner
  - if the municipal records indicate an address other than what is shown on the records of the Land Titles Registry, the notice may be served, in the treasurer’s opinion, to the most current address (Section 26.2).
    - The treasurer should document reasons for opinion as to the most current address OR you may wish to send to both addresses.
  - Each person named on the title is served a notice individually even though they may be joint owners e.g. husband and wife.
- Assessed owner if different from registered owner (if there is an alternative address) should be served at both addresses.
  - Where the same person is to be given notice for more than one parcel, it is sufficient to mail only one notice with respect to all parcels. (Form C may be modified to include multiple parcels) However, if separate notices are issued, they must each be sent in a separate envelope.
- All parties listed on the titles that have a registered interest.
- The treasurer shall ensure that a ‘Notice of Intent to Realize on Security’ is served at the same time as the six month notice if the property is owned by a farmer. (Refer to “Property Owned by a Farmer”, page 11).

***Persons not required to be notified:***

Persons whose interest in the land will not be affected by the municipality obtaining title (Section 27). Includes those with registered easements for public utilities and right-of-ways.

***Suggestion:***

When in doubt serve the notice on all persons who have an interest to avoid possible problems at a later date.

**Service of Notice (Assessed Value over \$17,500) (Section 23)**

Service of notice must be by personal service or registered mail.

(a) Personal Service

- (i) Personal service may be used in all instances.
- (ii) "Affidavit of Personal Service" ( Form F) must be completed for each notice served in person. Swear or affirm the affidavit immediately because of possible changes in personnel.
- (iii) The date service is deemed to have been made is the date notice was personally served.

(b) Registered Mail

- (i) Registered mail is required for all service of notice by mail. Acknowledgement of receipt card (A.R. card) is no longer a requirement.
- (ii) Prepare Form E, "Declaration of Other Services Made" listing all persons served Form C by registered mail.
- (iii) The date service is deemed to have been made is the date stamped on the postmaster's receipt for the registered letter containing Form C. Be sure the receipt is attached to Form E.

(c) Advertising in newspaper (when recipient's address is unknown)

If the address of the registered owner is unknown after taking all reasonable efforts to determine a current address, advertise the notice in a newspaper published in Saskatchewan and circulating in the municipality in which the land is situated once a week for two consecutive weeks.

**Note:**

The six month waiting period begins on the date service is deemed to have been made on the last person served (mark your calendar for future reference).

If the municipality has issued Form "C" prior to the change in regulation and the property in question had a value over \$5,000 and under \$17,500, the municipality would revert back to the process outlined in Section 26 Value under \$17,500.

In the file for each property retain:

- Form D – the Certificate as to Assessed Owner and Value
- Form E – Declaration of Other Services Made
- Form F – Affidavit of Personal Service;
- a copy of the "Notice" (Form C) with a list of the persons on whom it was served and how it was served;
- receipts for postage and other expenses; and
- receipts from the postmaster for registered mail.

***Consent of the Provincial Mediation Board (Assessed Value over \$17,500) (Section 24)***

Consent of the Provincial Mediation Board is required for each parcel over \$17,500 in value. (A parcel is each property as listed on the tax enforcement list)

Submit Form 5 – the Request for Consent to the Provincial Mediation Board for permission to make final application for title. Include a copy of the title with the application.

Subsection 7(1) of *The Provincial Mediation Board Act* reads as follows:

"No proceeding shall be taken to obtain title to land under Section 24 of *The Tax Enforcement Act*, except with prior written consent of the board given after the expiration of the period of six months mentioned in that Section."

The Board may issue "consent". This will be in the form of a letter giving the municipality permission to proceed to take title.

The consent may be subject to certain conditions such as:

- Excess proceeds must be applied to tax arrears on any other lands in the municipality owned by the same person(s).
- The property must be sold to the assessed owner or some other person.
- Excess proceeds belong to the previous owner.
- The land must be transferred to the mortgage holder upon payment of the tax arrears, penalties and costs.

The municipality must register the Board's consent against the title as a subinterest of the tax lien. The process for this is similar to registering a tax lien. The treasurer may then proceed with Form G – the 30 day “Final Notice”.

The Board may issue a prohibition order. A prohibition order is an order that stops a municipality from taking any further tax enforcement steps and applying for title. The Board may issue this order even after consent has been issued. If a prohibition order is issued, this entitles the person, under Section 19 or 20, to redeem the land. The board may request that person to make a payment to the municipality by a certain date.

If full payment is made, the land is considered redeemed.

If payment is not made by the date given on the prohibition order, the prohibition order will automatically expire. The treasurer may then proceed with Form G.

***Suggestion:***

If problems arise, the treasurer should contact the Provincial Mediation Board for direction. Further information is also included in an information sheet provided by the Board which is included after Form 5 in Appendix D.

***Note:***

The treasurer shall ensure that a new “Notice of Intent to Realize on Security” is served if any partial payment has been made on property owned by a farmer since the last “Notice of Intent to Realize on Security” was served (Refer to ‘Property owned by a Farmer’, page 11).

### ***Thirty Day Final Notice (Assessed Value over \$17,500) (Section 24)***

The procedure for Form G – the 30 day “Final Notice” is similar to that required for Form C. Consent of the Provincial Mediation Board and registration of that Consent is required before proceeding with this step.

1. The treasurer shall obtain a copy of title from ISC.
2. Prepare Form D – the Certificate as to Assessed Owner and Value.
3. Prepare the 30 day "Final Notice" in Form G. Use the land description as it appears on the "Title".
4. Serve Form G on
  - the assessed owner(s);
  - the registered owner(s); and
  - all parties who have an interest in the land as indicated on the title.If there are changes in ownership, serve the current owners.
5. Form G must be by personal service or registered mail.
6. Personal Service
  - Personal service may be used in all instances.
  - Form F must be completed for each notice served in person.
  - The date service is deemed to have been made is the date notice was personally served.
7. Registered Mail
  - Registered mail is required for all final notices by mail.
  - Service is deemed to have been made on the date stamped on the postmaster’s receipt for the registered letter containing Form G.
  - An Acknowledgement of Receipt Card is not required.
8. Prepare Form E listing all persons served by registered mail.
  - Attach the receipt from the postmaster to the declaration.
9. If the registered and assessed owner is the same person but the addresses on the assessment roll and the records of the Land Titles Registry are different, the treasurer may serve the person at each of those addresses.

The 30 day waiting period begins on the date service is deemed to have been made on the last person served (mark your calendar for future reference).

***Request for Registrar to Issue Title (Assessed Value over \$17,500) (Section 26.1)***

If the arrears and costs are not fully paid within 30 days after Form G is deemed served, council may authorize the treasurer to proceed with title acquisition. The treasurer will apply to the registrar to transfer the title by submitting the following:

- (a) To transfer a single title the treasurer will need an "Application for Transfer (Single Title)". For a multiple title transfer the treasurer will need an "Application for Title Transfer (Part I: Surrender) and an Application for Title Transfer (Part II: Setup)
- (b) "Request to Registrar to Issue Title" (Form H); and
- (c) "Affidavit of Value" (to form part of H). Delete and initial the appropriate clauses. (The form may require you to delete all of clauses 3,4 and 5; however, delete only the applicable clauses.)

The title issued to the municipality will be free of encumbrances, with the exception of those identified in section 27.

***Note:***

Once title is transferred to the municipality under the provisions of *The Tax Enforcement Act*, the treasurer must immediately remove all arrears of taxes, current year taxes to the date of title transfer and other charges from the tax roll respecting that property and record them on the "Tax Enforcement Record" (Form 3).

The balance of taxes owing to the end of the current year should be cancelled through council resolution. Where the property is sold before December 1 of the current year, the current taxes should be cancelled for the portion of the year in which the municipality held the title only. The new owner should receive an amended tax notice. The Tax Notice should indicate the taxes owing from the date the title was transferred into the new owners name until the end of the current year.

If a person is occupying the land when the title is transferred to the municipality, that person is considered to be a tenant of the municipality.

## Unusual Circumstances (Section 25)

- (a) Person is deceased;

Serve the notice on the legal representative. A legal representative may be named on a title registered with ISC, as a representative of the estate. If there is no legal representative named on a title registered with ISC, the municipality will be required to obtain a Surrogate Registrar Certificate.

- A **Surrogate's Certificate** may be obtained from the Surrogate Registrar for the purpose of verifying who the legal representative is, if any. The Surrogate's Certificate may not indicate the legal representative's contact information; however the cover letter from the Registrar will indicate the file reference number and the contact information for the judicial center. Detailed information regarding that specific file number may be obtained by contacting the applicable judicial center. There is no additional charge for obtaining detailed information regarding the surrogate's certificate if you request the information by file number. Retain the cover letter for future reference.

**Contact Information:**

Phone: 787-5223 Fax: 787-7217  
Address: Wills and Estates  
Court of Queen's Bench  
2425 Victoria Avenue, Regina, Sk. S4P 4W6  
Fee: Search: If date from Death is less than 5 years **\$10.00**  
OR  
If date from death is greater than 5 years **\$20.00**  
Fee: Surrogate Registrar Certificate (in addition to above) **\$10.00**  
(Total Fees: Minimum-\$20.00-Maximum \$30.00)  
Cheque must be made payable to **Registrar, Court of Queen's Bench**

If a legal representative is not named on a title registered with ISC or on a Surrogate Registrar Certificate, **Section 25** of *The Tax Enforcement Act*, requires all notices to be served on the Official Administrator. If known, include the owner information regarding the date of death (or approximate year) and the last place of residence (town/city).

- The **Official Administrator** for the Province of Saskatchewan is the Office of the Public Guardian and Trustee.

**Contact Information:**

Ph: 787-5424 Fax: 787-5065  
Address: Official Administrator, Province of Saskatchewan  
Office of the Public Guardian and Trustee  
101-1871 Smith Street, REGINA SK S4P 4W4  
Website: [www.saskatchewan.ca](http://www.saskatchewan.ca)  
Email: [pgt@gov.sk.ca](mailto:pgt@gov.sk.ca)  
Fee: \$5.00 (Fee must accompany request)

- (b) Owner is mentally disordered.

Serve "Notice" ( Form C) on the property guardian or the Office of the Public Guardian and Trustee. If the court has declared a person to be a "mentally disordered person", the property guardian or the Office of the Public Guardian and Trustee will register an interest to that effect on the title at Land Registry.

### **Disposal of Property (Section 31)**

Once the title is in the name of the municipality, the land **must** be offered for sale within 1 year by public auction or tender unless the Provincial Mediation Board orders something different.

A municipality may lease or use tax title property prior to the sale during the one year period in which the sale must take place. Council must distribute the proceeds of any sale as provided in subsection 33(1) of the Act.

If the property is leased, the proceeds of the lease are to be distributed in accordance with Section 33(1) of *The Tax Enforcement Act* as well as shared with the school division (subsection 291(2) of *The Education Act, 1995*).

***Note:***

If the land is not sold within the one year period, the municipality is no longer bound by a conditional order issued by the Provincial Mediation Board (subsection 31(1.1)).

The opening of the tenders or the public auction may only take place three weeks after advertising a notice in the following manner:

- (i) in one issue of a newspaper published in or near the municipality in which the land is located;
- (ii) by giving notice, by ordinary mail, to all school divisions in which the land is located; and
- (iii) by posting one copy of the notice in the treasurer's office.

The municipality may reject any bid that is not sufficient to cover arrears, penalties and costs. When a bid is rejected, the municipality may sell the land by private sale at the best price available.

The municipality may accept the highest bid offered even if that bid is not sufficient to cover arrears, penalties and costs.

In the case of either public auction or private sale, the land may be sold on such terms as the council deems proper.

A municipality may retain for its own use the title to land acquired under this Act, however, it must pay all outstanding taxes and other liabilities (subsection 31(7)). A party that had legal rights to the property on the day before the municipality acquired the land may apply to a judge to force the sale of the land.

Municipal officials are prohibited from purchasing tax enforcement property other than at a public auction unless the property purchased is intended as a site for the official's home.

If the property is not intended for the official's home and is not sold by public auction but rather by tender - then all bids that are tendered must be submitted to the auditor of the municipality and no person other than the auditor shall be entitled to open and inspect the tendered bids.

Any sale of a parcel that is acquired contrary to these conditions is null and void.

***Note:***

Under Section 183 of the *Excise Tax Act*, when a municipality acquires property as a result of action taken under *The Tax Enforcement Act*, the subsequent sale of the property may be exempt from the Goods and Service Tax (GST).

Canada Customs and Revenue Agency advises that, if the property in question is a used residential house and the land immediately contiguous to the house, the acquisition and sale are not subject to GST.

Canada Customs and Revenue Agency considers the sale of all other tax title properties, including commercial, industrial and agricultural, to be made in the course of the municipality's commercial activities and is therefore subject to GST.

For further information on the GST implications of tax title property sales, contact Canada Customs and Revenue Agency directly.

The provisions of *The Municipalities Act* respecting the sale of municipal property do not apply to tax title property unless the property was obtained in settlement of taxes. In this case, section 274 of *The Municipalities Act* requires disposal of the property and distribution of sale proceeds in accordance with *The Tax Enforcement Act*.

### *Proceeds of Sale*

Sale proceeds will be distributed in the following order:

1. Prior to any other distribution, the proceeds will be applied to Dominion liens – those filed by federal governments or agencies.
2. All costs and expenses legally incurred during the process of obtaining the title.
3. If the property sold for the exact value or less, the balance remaining after the costs are taken off must be prorated in accordance with the amounts outstanding between all of the taxing authorities involved.
4. If sold at a profit, all taxing authorities and provincial interest (if any) are paid in full. Subject to conditions set out by the Provincial Mediation Board, excess proceeds will belong to the municipality and will not be shared with other taxing authorities. Note provincial (Crown) interests *follow* federal and municipal claims. These interests may remain registered on the title, and the municipality may need to discuss removal of the registration with the interest holder.
5. Profit on sale of tax title property is general revenue of the municipality and is separately recorded on the financial statement.
6. If the proceeds of the sale of the tax title property are not enough to discharge all taxes due on that particular land, the unpaid portion is cancelled and charged back to the respective taxing authorities (subsection 33(2)).

## APPENDICES

### A – ACCOUNTING FOR TAX ENFORCEMENT

To assist in the completion of the required forms an example using the imaginary Village of Wheatfield with the following taxes outstanding as of January 1, 20YY has been prepared.

Taxes in Arrears:

Lot 3 Block 5, Plan 65R02290, Extension 0	\$820.00
Lot 7 Block 6, Plan 65R02290, Extension 0	\$345.10
Lot 5 Block 8, Plan 60R09982, Extension 0	\$987.27
Lot 22 Block 12, Plan 69R01346, Extension 0	\$149.15

Within the example as prepared, we will follow Lot 3, Block 5, Plan 65R02290, Extension 0 through from the presentation to the council of the list of lands with arrears, to the transfer of the title to the municipality.

Calculations are based on a taxable assessment of \$32,800 with a mill rate of 10 for municipal and 15 for school purposes. Penalty for tax arrears is 10%.

With respect to Lot 22, Block 12, Plan 69R01346, Extension 0 within the example, the tax lien was filed and then withdrawn following payment of the arrears outstanding.

### FOR ALL OFFICES

Cash Payments Entry - to record expenses as they occur

Telephone Expense	Dr
Postage Expense	Dr
Legal Expenses (Title Transfer, etc.)	Dr
Bank	Cr

Cash Receipts Entry - to record payment of expenses at time of redemption or sale.

Bank	Dr	
*Individual Accounts		Cr

\*Credit Individual Accounts if the payments were received in the same year that the expenses were incurred.

**FOR OFFICES WITH GENERAL LEDGER**

Journal Entry

*Tax Enforcement Costs	Dr	
Telephone Expense		Cr
Postage Expense		Cr
Legal Expense		Cr
To transfer Tax Enforcement Costs		
re Lot       ; Block       ; Plan       ; Title No.		
Sec       ; Twp       ; Rge       ; W Meridian; Title No.		

Surplus	Dr	
Tax Enforcement Costs		Cr
To close expense account at year end.		

\*Note: Tax Enforcement Costs will be an additional Chart of Account under General Government Services.

Final Accounting Entries for Transfer of Property to the Municipality

**GENERAL JOURNAL**

Operating Fund

March 25, 20XX

Tax Title Property	\$4197.36	
Municipal Taxes Receivable		\$1685.65
School Taxes Receivable		\$2511.71
Due to School re Uncollected Taxes	\$2511.71	
Due to school re Tax Enforcement		\$2511.71

To record the transfer of Lot 3, Block 5, Plan 65R02290, Extension 0 to Tax Title Property

### Accounting for Disposal of Tax Title Property

1)	Sold for the exact value		
	Bank	4197.36	
	Tax Title Property		4197.36
	Due to School re Tax Enforcement	2511.71	
	Due to School re Tax collection		2511.71
2)	Sold for a profit		
	Bank	5000.00	
	Tax Title Property		4197.36
	Profit on Tax Title Property		
	Sold		802.64
	Due to School re Tax Enforcement	2511.71	
	Due to School re Tax Collection		2511.71
3)	Sold at a loss		
	Bank	3500.00	
	Allowance - Tax Title Property	280.06	
	Due to School re Tax Enforcement	* 417.30	
	Tax Title Property		4197.36
	Due to School re Tax Enforcement	* 2094.41	
	Due to School re Tax Collection		2094.41

**Note:** To determine the prorated values use the following formula.

Due to School re Tax Enforcement Property ) Tax Title Property  
 = Prorated Factor  
 (2511.71 ) 4197.36 = 59.8402%)

Prorated Factor x Property Sale price less costs  
 = Due to School re Tax Collections  
 (59.8402% x 3500.00 = 2094.41)

\*Due to School re Tax Enforcement Property must equal \$2511.71, when sold at a loss (\$417.30 + \$2094.41).