

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #35

TAX BILLING AND INTEREST CALCULATION

- Revised -

- Summary:** Municipalities must issue tax bills to collect taxes; there are several options in setting the interest rate on overdue taxes.
- Legislation:** Specific - Part VI, Sections 111 to 117, Section 167
Related - Section 49(1)(a), Section 72(3)
- Discussion:** The first step in recovering taxes is setting the tax rate: s.72. When the rate is set, the council also sets the due date for taxes: clause 111(1)(a). If no due date is prescribed, taxes are due and payable as soon as the tax rate is set: subsection 111(2).
- Council may also determine whether the taxes are to be paid in one sum or instalments. If the taxes are payable in instalments, the municipality may provide that if one instalment is not paid, the balance of the taxes are immediately due and payable (termed an acceleration clause): subsection 111(3). Few if any municipalities in Nova Scotia have adopted instalment payments of taxes after the rate is set. It is far more common for municipalities to provide for the early payment of taxes, usually referred to as interim billing: subsection 112
- Interim Billing**
- Section 112 is the legal framework for interim billing. Many municipalities use interim billing as a way to improve their cash flow. The requirement to implement interim billing is a policy that sets the date on which the instalment is due and the way it is to be calculated, normally half of the taxes for the previous year.

Interest

Discounts are permitted to encourage the early payment of taxes if a municipality so chooses: subsection 113(1).

Interest may be charged on overdue taxes. The rate is set by policy: subsections 49(1) and 113(2). Rather than setting a fixed rate, effective until the policy is changed, a council can instead adopt a formula by which the rate of interest may be determined and automatically adjusted: s.167. Examples of formulas include "four percentage points over the municipality's bank borrowing rate" or "six percentage points above bank prime lending rate". The bank should be specified. If a formula is adopted, it must be clear enough that any ratepayer can recheck the calculations. Refer to subsection 113(7).

Interest forms part of the taxes: subsection 113(3). As a result, the interest is as much a lien on the property as the original taxes.

Council is now empowered, specifically, to provide that interest on overdue taxes is compounded, not more than monthly: subsection 113(5). If the council does not provide for compounding interest, it is likely that only simple interest can be charged even if taxes are very substantially in arrears.

Council may also provide that if taxes are not paid within thirty days of the due date, interest will be charged back to the day the tax rate was set: subsection 113(6). This can amount to a penalty similar to the penalty for late payment of water or electric bills.

Interest and discounts apply to area rates and taxes collected for other bodies (villages and service commissions) in the same manner as for general rates unless the council specifically provides otherwise: subsection 113(8).

Collection

A separate guide for tax collection has been prepared.

Taxes are recoverable even though the assessment on which they are based is under appeal: s.114. Once the appeal is finalized, any overpayment must be refunded with interest at the

rate council prescribes: subsection 114(2). This rate could be determined by formula: s.167. *If council does not set a rate of interest, the rate will be the same as the rate on overdue taxes:* subsection 114(3).

Since this rate is normally much higher than the interest rate the municipality earns on its investments, municipalities should consider setting a lower rate, perhaps related to the rate of interest that the municipality receives on its short-term investments.

Tax Bills

Tax bills must be sent out at least annually: s.117. The bill should show the amount due and the due date, and distinguish between taxes for the current year and arrears. There should also be an explanation of any incentives for early payment and the interest on overdue taxes. Any tax exemption or reduction under Section 72 must be shown on the tax bill: subsection 72(3).

If the address of the person assessed cannot be ascertained, the tax bill is to be posted on the property.

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Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant legislation and to legal advisors.