

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Anna Lisa Barbon, Deputy City Manager, Finance Supports
Subject: Pre-Authorized Tax Payment Plan By-Law and Collection of Property Taxes By-Law
Date: October 23, 2023

Recommendation

That, on the recommendation of the Deputy City Manager, Finance Supports, the following actions be taken with respect to property taxation for 2024:

- a) The attached by-law (Appendix A) BE INTRODUCED at the Council meeting on November 7th, 2023, to amend By-law A.-5505-497 being “a by-law to authorize the implementation of a pre-authorized payment plan” so that the calculation of pre-authorized payments is based on the previous year’s taxes increased by the average increase in total property tax rates in the residential class of the previous year.
- b) The attached by-law (Appendix B) BE INTRODUCED at the Council meeting on November 7th, 2023, to enact a Property Tax Collection by-law and to repeal By-law A-8 as amended.

Executive Summary

The Pre-Authorized Payment Plan and Property Tax Collection by-laws are updated annually to incorporate increases to the residential property tax rate in the previous year and outline how property taxes are collected. This report details the recommended interim property tax rate and percentage increase to estimated pre-authorized payments for tax collection in 2024 and updates the Tax Collection By-law accordingly.

Linkage to the Corporate Strategic Plan

Council’s 2023 to 2027 Strategic Plan for the City of London identifies a “Well-Run City” as a strategic area of focus. The information contained in this report would assist in continuing to ensure the strength and sustainability of London’s finances in alignment with Council priorities of the Strategic Plan.

Analysis

1.0 Background Information

1.1 Legislation Related to Interim Property Tax Billing

Section 317 of the *Municipal Act, 2001* permits a municipality to levy interim taxes prior to the completion of its annual budget and the determination of education tax rates by the Province. Sections 342 and 307 of the Act provide additional flexibility with respect to due dates and payment arrangements. In accordance with section 317 the amount that can be levied on each property prior to the adoption of the budget is limited to fifty percent of the total property taxes applicable to the property in the previous year. Interim tax levies provide the municipality with funds to operate and make remittances to school boards prior to the finalization of municipal and education tax rates for the year. Interim tax levies do not affect the determination of total final taxes for the year as any taxes not billed at the interim time are included on the final tax bill.

2.0 Discussion and Considerations

2.1 Interim Property Tax Calculation for 2024

Beginning in 2011, the City adopted the practice of adjusting the interim billing tax rate each year by the approximate amount of the average tax increase in the residential property class of the previous year. This annual adjustment permits the City to bill five (5) instalments each year and ensures that the amounts of each instalment are approximately equal. Each instalment is roughly 20% of the total taxes for the year (5x 20% = 100%). Two (2) instalments are billed as an interim levy in January each year (40%) and three (3) instalments are billed in May as the final tax instalments for the year (60%). In 2023, the average increase in total property tax rates for the residential property class was 2.73%. Using this basis of calculation, the interim tax rate for 2024 would be based approximately on 41.09% (40% x 1.0273) of the 2023 taxes levied.

It is therefore recommended that an interim levy of 41.09% of the previous year's taxes be set for the 2024 interim billing in the property tax collection by-law. The proposed by-law would have results consistent with past practice and would also divide the annual tax billing into five (5) approximately equal instalments for the convenience of the individual property owners.

2.2 Repeal and Replace Tax Collection By-Law A-8

By-law A-8, a by-law to provide for the Collection of Property Taxes, was first passed November 15, 1993. Since then, legislative changes, including a new Municipal Act, have necessitated the deletion or addition of sections of the original by-law through numerous amendments. This report, produced annually, normally includes a by-law amendment which removes and replaces one section of the by-law to update the property tax year and interim tax multiplier to be used. For this report, instead of changing one section of the by-law, it is recommended that the Property Tax Collection By-Law A-8 be repealed and replaced in its entirety to reflect legislative changes and to provide additional clarity regarding property tax due dates, property tax payments, and the treatment of assessment changes in the billing process.

Since By-Law A-8's inception, amendments were passed to delete or repeal several sections which still appear in the by-law. Further, there are also several sections which shall be deleted as they apply to a time period that has past or make reference to past legislation. Below are sections that are being deleted;

Section 1.3 – Interim Levy – calculation was deleted by by-law A-8-11017 on December 20, 2010.

Section 1.4 – Interim Levy – due date – certain classes – this section was repealed by by-law A-8-98006.

Section 1.5 – Levy – on whole assessment – calculation – former city area – this section was deleted by by-law A-8-11017 on December 20, 2010.

Section 1.6 – Levy – on whole assessment – calculation – annexed area – this section was deleted by by-law A-8-11017 on December 20, 2010

Section 1.10 – Factor Estimate – this section was deleted by by-law A-8-11017 – December 20, 2010

Section 3.2 – Business Taxes – one instalment – July 15, was repealed by by-la A-8-98006.

Section 3.4 – 1994 additional payments – due dates, refers to additional payments and due dates for 1994. As no amendments have been made to update rates or due dates, and additional rates are no longer used, this section will be deleted.

Section 3.5 – Final billing – dates – determined by City Treasurer, refers to the year 1999 exclusively and establishes the City Treasurer authority to set due dates for the capped assessment area. As the time frame has past and the City has exited the capping program, this section will be deleted.

Section 3.6 Definition – capped assessment area, refers to subsection 399(11) of the *Municipal Act*, which was repealed in 2018. As the City exited the capping program in 2020, and the referenced subsection has been repealed, this section will be deleted.

Section 3.7 – Final billings – calculation – year 2000, refers to the previous Municipal Act which was replaced by the current legislation, *Municipal Act, 2001*. This section outlines the final billing calculation for the year 2000, the final year prior to implementation of the new *Municipal Act, 2001*. Final billing calculations are prescribed under Part X Tax Collection of the *Municipal Act, 2001*, and a by-law establishing the calculation is no longer required. This section will be deleted.

Section 3.8 – Due in one instalment – August 31 – certain circumstances, provides additional calculations and is an addendum to Section 3.7 above. For the same reason as Section 3.7, this section will also be deleted.

Section 3.11 – Real property taxes – 3 instalments – due dates for the year 2020, was used to change the due dates for the year 2000 exclusively in response to the pandemic. As the City has reverted to the due dates established in Section 3.1 of By-law A-8, this section is no longer applicable and will be deleted.

Section 5.5 - City Treasurer – authority – tax assistance, refers to a tax assistance program as prescribed in Ontario Regulation 291/94 that expired in 2003 and has been repealed. As this section is no longer applicable it will be deleted.

Section 5.7 - Penalty/interest calculation, was used to delay interest charges in 2020 in response to the pandemic. As the City has resumed imposing penalty/interest charges monthly, this section is no longer applicable and will be deleted.

After removal of these sections, the remaining sections will be renumbered, as required. However, to further add clarity to the Tax Collection By-Law, section 4.6 will be added as follows.

Section 4.6 – Correction of interest and penalties arising from certain errors or changes. This section is being added to provide clarity regarding the treatment of penalty and interest in the event of an error or assessment change, consistent with what is set out in section 345(7) of the *Municipal Act, 2001*.

2.3 Pre-Authorized Payment Plan Amendment

In accordance with section 342 (1)(b) of the *Municipal Act, 2001*, the City of London passed by-law A.-5505-497, which authorized the implementation of an optional Pre-authorized Payment Plan for property owners. Payments are deducted from the authorized bank account on the last business day of the month over ten (10) months. The first five (5) payments (January – May) are estimated and needed to be amended annually based on the increase in total property tax rates for the residential class in the previous year. It is therefore recommended that the pre-authorized payments for 2024 be based on the previous year's taxes which increased by 2.73% representing the average tax increase that occurred in the residential class in 2023.

3.0 Financial Impact/Considerations

3.1 Cash Flow Considerations

The proposed by-law amendments would ensure that the City has sufficient funds to carry on operations and make required remittances to local school boards. Section

257.11 of the *Education Act* prescribes when a municipality shall pay amounts levied for school purposes.

Conclusion

It is recommended that the pre-authorized payment by-law be amended so that payments for 2024 are based on what the taxes of the previous year increased by based on the average increase in total residential property tax rates of the previous year (i.e. 2.73%). It is also recommended that the Property Tax Collection By-law be repealed and replaced so that it reflects only current legislation and set the interim tax payments for 2024 on the same basis. This would result in an interim levy based on 41.09% of the previous year's annualized taxes in 2024.

Prepared by:	Joseph McMillan, Division Manager, Taxation & Revenue
Submitted by:	Ian Collins, Director, Financial Services
Recommended by:	Anna Lisa Barbon, Deputy City Manager, Finance Supports

“Appendix A”

Bill No.

By-law No.

A by-law to amend By-law No. A.-5505-497 being “A by-law to authorize the implementation of a pre-authorized tax payment plan for The Corporation of the City of London” by changing the multiplier to determine the pre-authorized property tax payment from 1.0245 to 1.0273 effective January 1, 2024.

WHEREAS subsection 5(3) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act*, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act*, 2001 provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 342(1) of the *Municipal Act*, 2001, provides the municipality with the power to pass by-laws regarding the payment of taxes;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Schedule “A” of By-law No. A.-5505-497 is amended by repealing and replacing paragraph 10 with the following new paragraph:
 10. For 2024 the amount of the pre-authorized payment for the period January to May shall be calculated as the most recently available assessments consistent with the previous year’s assessment valuations multiplied by the total tax rates applicable to the property in the previous year and then multiplied by 1.0273 and then increased by any local improvement or similar charge applicable to the property in 2024 and then divided by 10 and rounded to the nearest dollar.
2. Paragraph 2 of By-law No. A.-5505-497 is amended by deleting the words “By-law A-8,”
3. This by-law comes into force and effect on January 1, 2024 subject to the provisions of PART VI.1 of the *Municipal Act*, 2001.

PASSED in Open Council on November 7, 2023 subject to the provisions of PART VI.1 of the *Municipal Act*, 2001.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – November 7, 2023
Second Reading – November 7, 2023
Third Reading – November 7, 2023

“Appendix B”

Bill No.

By-law No.

A by-law to enact a Property Tax Collection by-law and to repeal By-law A-8 as amended.

WHEREAS subsection 5(3) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act*, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 317 of the *Municipal Act*, 2001 provides for the passing of by-laws for the levying of interim rates of taxation;

AND WHEREAS sections 342 and 307 of the *Municipal Act*, 2001, provide the municipality with additional flexibility with respect to due dates and payment arrangements;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Property Tax Collection by-law attached hereto as Schedule “A” is hereby adopted.
2. By-law A-8, as amended, is hereby repealed.
3. This by-law comes into force and effect on January 1, 2024 subject to the provisions of PART VI.1 of the *Municipal Act*, 2001.

PASSED in Open Council on November 7, 2023 subject to the provisions of PART VI.1 of the *Municipal Act*, 2001.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – November 7, 2023
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SCHEDULE "A"

PROPERTY TAX COLLECTION BY-LAW

Part 1

INTERIM PROPERTY LEVY

1.1 Levy - on whole assessment - calculation

In each year there shall be imposed, before the final tax billing, an interim property tax levy.

1.2 Payment - two instalments - set out

The payment of the levy under section 1.1 of this by-law is required to be made by two instalments:

- (a) the first of which shall be due on the last business day of February in the year in which they are levied; and
- (b) the remainder of which shall be due on the last business day of March in the year in which they are levied;

and, if in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

1.3 Interim Levy - calculation

Where the rate otherwise authorized to be levied under this part exceeds the maximum permitted by Provincial regulation, then the maximum rate permitted by Provincial regulation shall be deemed to be the amount authorized to be levied on the property or portion of the property subject to Provincial regulation.

1.4 Interim Levy – rates

For the year 2024 the interim levy for a property shall be calculated as 41.09% of the total amount of taxes for municipal and school purposes levied on the property for the previous year.

1.5 Interim Levy – treatment of additional assessment

Notwithstanding section 1.8 where assessment was added to the collector's roll during the previous year, paragraph 3 of Section 317(3) of the *Municipal Act, 2001* shall apply in calculating the interim levy.

Part 2

CURRENT TAXES AND RATES

2.1 Real property taxes - 3 instalments - due dates

Except as provided by sections 1.2, 2.2 and 2.4 of this by-law, the payment of real property taxes including local improvement assessments, and all other rents or rates payable as taxes is required to be made by three instalments:

- a) the first of which shall be due and payable on the last business day of June in the year in which they are levied;
- b) the second of which shall be due and payable on the last business day of August in the year in which they are levied; and
- c) the third of which shall be due and payable on the last business day of October in

the year in which they are levied;
and, if in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

2.2 Taxes - Assessment Act - instalments - notice

Taxes levied under sections 33 and 34 of the *Assessment Act, R.S.O. 1990, c. A.31*, as amended, shall be due in one or more instalments, the first of which shall be due not less than 21 days after the date of the mailing of the notice of taxes due.

2.3 Separate billing of different property classes

The Treasurer is hereby authorized to direct the billing of any class of real property separately from any other class.

2.4 Property taxes – final instalments – due dates

For the year 2001 and future years, the Treasurer is authorized to delay due dates for the final instalments of property taxes and to set different due dates for properties in all assessment classes.

Part 3

NOTICE OF PAYMENT

3.1 Mailing - delivery - by Treasurer- Tax Collector

The Treasurer or Tax Collector, as the case may be, is authorized to mail or deliver notices in accordance with the *Municipal Act* or cause them to be mailed or delivered to the address of the residence or place of business of the person charged with the payment of a levy under section 1.1 or 2.1 of this by-law or taxes or instalment thereof.

3.2 Levies - payment - as directed

The person charged with the payment of a levy under section 1.1 of this by-law or taxes or instalment thereof is directed to pay money payable to the municipality therefore to the Treasurer or Tax Collector, as the case may be, or electronically or in person most financial institutions as defined in section 346(3) of the *Municipal Act, 2001* on or before the day named for payment thereof.

3.3 Payments - partial - accepted - procedure

The Treasurer or Tax Collector may accept part payment from time to time on account of any taxes and give a receipt therefor, but the acceptance of any such part payment shall not affect the imposition and collection of the penalty for non-payment of a levy under section 1.1 of this by-law or taxes or instalment thereof by the due date named for payment.

Part 4

GENERAL PROVISIONS

4.1 Payment due - on weekend - holiday - procedure

Whenever any day mentioned in section 1.2 or section 3.1 of this by-law falls on a Saturday, Sunday, Easter Monday, or a legal holiday under the Bills of Exchange Act (Canada), the payment shall be due on the immediately preceding day not being a Saturday, Easter Monday or a legal holiday.

4.2 Non-payment - penalty

A percentage charge as a penalty for non-payment of a levy under section 1.1 of this by-law or taxes or instalment thereof equal to 1 ¼ percent shall be imposed on the first day of default and on the first day of each calendar month thereafter in which default continues, but not after the end of the year in which the levy is made under section 1.1 of this by-law, or in which taxes are levied.

4.3 Non-payment - previous years taxes - penalty

The Tax Collector shall add to the amount of all taxes due and unpaid interest at the rate of 1 ¼ percent per month for each month from the 31st day of December in the year in which the taxes were levied until the taxes are paid.

4.4 Tax Collector - failure to collect - procedure

In case the Tax Collector fails or omits to collect the taxes or any portion thereof by the day appointed for the return of the Collector's roll, the Tax Collector is authorized to continue the levy and collection of unpaid taxes and penalties and interest in the manner and with the power provided by law for the general levy and collection of taxes.

4.5 Correction of interest and penalties arising from certain errors by Canada Post

In those circumstances where an error in delivery of a tax bill by Canada Post results in return of the bill to the City, if the taxpayer pays the taxes billed on or before the end of the month following the due date, and requests cancellation of the interest and penalties, the Treasurer be authorized to cancel such interest and penalties.

4.6 Correction of interest and penalties arising from certain errors or changes

Pursuant to section 345(7) of the *Municipal Act, 2001*, late payment charges on overcharges of taxes arising as a result of errors or changes as set out in section 345(6) of the *Municipal Act, 2001*, the Treasurer be authorized to cancel such interest and penalties.

Part 5

ENFORCEMENT

5.1 Fine - for contravention

Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided in the *Provincial Offences Act*.