

Answers to Common Tax Sale Questions

Can a Tenderer's deposit be returned to the Tenderer in person, or does it need to be mailed?

Yes, a deposit can be handed directly to the Tenderer if requested; however, **a statement as to why their tender was rejected must accompany it**. The rules do not stipulate the method of which this notice, and their deposit (if any) are to be returned.

It is highly recommended that you acquire identification from the tenderer who is requesting that their deposit be returned in person sufficient to believe that the deposit is in fact being delivered to that person. Photocopying the "Rejection of Tender" form, their deposit cheque and their identification before returning these to the tenderer may avoid any potential questions relating to a tenderer claiming that their deposit was not returned to them.

Can a municipality start opening tenders earlier than 3:00 p.m. on the date of the Tax Sale?

No, the *Municipal Act* strictly states that the tenders must be opened "**as soon as possible after 3 p.m. local time on the last date for receiving tenders**".

Any variances on this could result in legal repercussions should a tenderer attempt to submit a tender before 3:00 p.m. on that day and be notified that it is too late because the Tax Sale has been completed or if the tender is accepted, those who would have been one of the two highest tenderers arguing that this tenderer was aware of what amount needed to be tendered in order to be successful.

Can a municipality accept a tender after 3:00 p.m. on the date of the Tax Sale?

No, tenderers only have until **3 p.m. local time on the last date for receiving tenders** to submit their tenders.

Any variances on this could result in legal repercussions from unsuccessful tenderers should the tenderer who submitted their tender after 3 p.m. be declared the successful purchaser or the second highest tenderer.

Can a deposit made by cash be accepted?

No, the *Municipal Act* strictly states the methods of which a deposit is to be made and **cash is not included as an option**.

However, **the balance owing by a successful purchaser can be made in cash**.

Can a deposit made by through a credit union be accepted?

Under the grandfathered Municipal Act and MTSR, a bank draft or cheque certified by a credit union **is not an acceptable form of payment**. If a deposit is made by way of a bank draft or cheque certified by a credit union, the tender must be rejected.

Under the new MA and MTSR (for files registered after Jan 1, 2018) cheques certified by a Credit Union are permitted

It may be that given the current legislation, the treasurer may elect to accept cheques certified by a Credit Union, even on a Grandfathered File if setting a precedent is no longer an issue (that is the municipality has no other grandfathered files)

What if a three tenders are received and they are all in the same amount?

The tender that was received earlier shall be deemed to be the higher. This is the importance of "time and date" stamping the tenders as soon as they are received.

If a person requests copies or general information regarding other tenders we have received, do we have to provide them with this?

No, the only documents you are required to allow any person to **inspect** are the "Statutory Declaration Regarding Sending of (First) Notices" and the "Statutory Declaration Regarding the Sending of Final Notices". **You are also required to provide copies** of these documents, subject to MFIPPA, at the same rate as is charged for "certified" copies under section 253 of the *Municipal Act* which is the fee for providing certified copies that has been established by council.

Providing copies of anything other than what is required under the *Municipal Act* and Municipal Tax Sales Rules made under that Act could be in violation of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) and could be subject to legal repercussions.

The Municipal Tax Sales Rules state that the balance owing are to be made by "cash". Does that mean we can only accept a cash payment when being paid the balance owing for a Tax Sale?

No, section 25 of the rules also state that any payment required to be made in cash can also be made by way of money order, bank draft or certified cheque.

Method of payment

25. Subject to clause 6 (1) (b), any payment required by this Regulation to be made in cash may be made by way of cash or money order or by way of bank draft or cheque certified by a bank or authorized foreign bank within the meaning of section 2 of the Bank Act (Canada), a trust corporation registered under the Loan and Trust Corporations Act or a credit union within the meaning of the Credit Unions and Caisses Populaires Act, 1994. O. Reg. 181/03, s. 25; O. Reg. 571/17, s. 11.

Please note: A tax sale may be cancelled at any time, including the day of a scheduled sealed tender bid opening, and any other time up until a tax deed is registered into a successful bidder's name. If a tax sale is cancelled, deposit cheques will be refunded in full. The purchase of tax sale packages, title or other searches will not be reimbursed.