

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE: May 13, 2020

TO: County Board of Supervisors, Chairwoman

FROM: David Cullen, Treasurer
Scott B. Manske, Comptroller

SUBJECT: Delinquent Taxes Interest and Penalty Deferral Under 2019 Wisc. Act 185

Issue

The State of Wisconsin passed 2019 Act 185 (Act 185, the Act) April 15, 2020 to deal with many issues associated with the pandemic and COVID-19. Act 185 Section 105(25) allowed for the deferment of interest and penalties on delinquent property taxes which occur after March 31, 2020. Property taxes that are unpaid after March 31 could be delayed for an assessment of interest and penalties until October 1, 2020 instead of the date of their missed installment payment. The State placed a requirement in the Act that both the County and community had to approve a similar resolution which would allow for such deferment. Any community must wait for the County to pass a resolution before the community's resolution could be effective.

Background

Property taxes assessed in 2019 are being collected by communities in 2020. All communities allow for either the full payment or installment payment of property taxes assessed in any year. Installment due dates vary by community, but typically fall on the last day of the month. Act 185 Section 105(25) allowed for the deferment of interest and penalties on delinquent 2019 property taxes which occur after March 31, 2020. Property taxes that are unpaid after March 31st could be delayed for an assessment of interest and penalties until October 1, 2020, instead of the date of their missed installment payment or February 1st. The only way this deferment could take place is if the County and the community passes a resolution allowing such deferment.

The City of Milwaukee collects its own property taxes, and any unpaid delinquent taxes. The City of Milwaukee makes the County whole for any uncollected County taxes assessed against their taxpayers. The fiscal impact to Milwaukee County for passing a resolution, as it applies to the City of Milwaukee, would be zero, since the City of Milwaukee collects its delinquent taxes related to all taxing districts.

Like the City of Milwaukee, suburban municipalities collect property taxes assessed by the municipality, schools, County, MMSD, and Technical schools. The assessments are paid by taxpayers in a lump sum or under an installment plan. Typical installment plans have payments due at the end of January, March and either, April or May. There is, however, a significant difference between the City of Milwaukee and suburban communities. In August of each year the County Treasurer pays off the unpaid assessed taxes for all taxing districts of the suburban communities. The County Treasurer is then responsible to collect the delinquent taxes, including interest and penalties from taxpayers. This is the same policy for all other Wisconsin counties. The City of Milwaukee is the only municipality in the State that does not require the County to collect its delinquent assessed taxes.

Act 185 was intended to deal with many issues associated as a result of COVID-19 and the Stay at Home order. One item was intended to provide some relief to taxpayers who would be out of

work, limited work, or experiencing other issues due to the pandemic. The specific language in Act 185 associated with property taxes was to allow for the deferral of property tax payments until October 1, 2020. This deferral was limited to post-March property taxes since any taxes that were delinquent prior to April 1, would not have been a result of COVID-19 fiscal challenges as passed in Act 185.

Originally, the Act would have allowed a municipality to decide alone as it applies to the deferral of property tax payments for 2020. A late amendment applied the requirement that a County must also agree to such deferment. For the majority of Counties in the State of Wisconsin, the Counties act as the collection point for all property taxes. Only in certain counties are municipalities charged with such collection: including Dane, Waukesha and Milwaukee. As a result, the County must decide to approve a resolution for the deferment of property taxes until October 1, 2020, and then the municipality must also pass a resolution to provide for such deferment. The municipalities' resolution must be similar to the County's resolution in that any restrictions applied by the County, must also be applied by the municipality.

Act 185 provides for the communities to make a "general or case-by-case finding of hardship" and on that basis provide that late installment payments due and payable after April 1, 2020, do not accrue interest or penalties if the total amount owed is paid by October 1, 2020. Accordingly, the decision to waive interest and penalties can be applied "generally" across the entire community or for individual taxpayers on a case-by-case basis. Guidance from the Wisconsin Counties Association stated that a "general" waiver would be more appropriate due to the potential for lawsuits or disagreement regarding the hardship provision.

Summary:

- The deferment of post-March delinquent property taxes must be approved by the County and a municipality before a delinquency can be deferred.
- If the County does not pass a resolution, the deferment of delinquent property taxes cannot occur, no matter what the municipality does.
- If the County passes a resolution to allow deferment, but the suburban municipality does not pass a resolution, all delinquent taxes of the suburban municipality are due to the County by August 15, and interest and penalty would be assessed to an earlier date regardless of date of delinquency.
- Deferment only applies to delinquencies that occur after March 31.
- There is no financial cost to the County for approving a resolution related to the City of Milwaukee, since the City of Milwaukee is responsible for the collection of any and all of its delinquent taxes, including the County's apportionment to them.
- By waiving interest and penalties to October 1st on Post-March delinquencies, the County is giving up such revenue for at least five months on delinquent taxes.
- An October 1st payment date is different than our current rules, so taxpayers may use this as an opportunity for cash flow, or simply to reduce their cost of interest and penalties.
- Any resolution can either be made to apply "generally" to post-March delinquent taxpayers or on a case-by-case finding of hardship.
- Certain municipalities have installment dates which occurred on April 30th. The deferment of interest and penalties would apply to them also if the resolution is effective beginning on April 1, 2020.

Risks associated Act 185 actions on deferment of delinquent taxes:

The following are the risks the County faces related to the passing of a resolution which defers the interest and penalty on Post March delinquent taxes to October 1, 2020.

1. Loss of interest and penalty income on post-March delinquent taxes, which would defer the interest and penalty assessment date to October 1, 2020 from an earlier date;
2. Administrative costs of changing computer software and processing an increased volume of delinquent taxes;
3. Temporary loss of cash flow for taxpayers who defer tax payments from July 2020 to September 2020.

Description	City Of Milwaukee		Suburban Communities	
	2020	2021	2020	2021
Lost interest and penalty on Delinquent Taxes	\$ -	\$ -	\$ 178,000.00	\$ 400,000.00
Administrative costs	\$ -	\$ -	\$ 225,000.00	\$ -
Lost interest due to cash flow	\$ -	\$ -	\$ 25,000.00	\$ -
	\$ -	\$ -	\$ 428,000.00	\$ 400,000.00

Loss of Interest and Penalty Income:

As can be seen on the table below, various communities have responded as to their estimates of delinquent taxes, cash flow, and payments to be made at installment dates. The numbers from communities who responded were used to determine an overall dollar value of delinquent taxes, cash flow, and installment payments. This is only an estimate and collections continue to be made by municipalities for installment dates and delinquent taxes

Based on this table, \$12.4 million of delinquencies would be unimpacted by the resolution since they were delinquent prior to April 1, 2020. Post-March delinquencies would be \$7.7 million. As a result, the County would have total delinquencies of \$20 million.

The loss to the County would be lost interest and penalties for an average period of 5 months on the post-March delinquencies. Interest and penalties under State Statute are 1% a month for interest (12% annually) and 0.5% a month for penalty (6% annually). Total interest and penalties per year are 18%.

Total revenue loss to the County is projected to be \$578,000 (\$7.7 million x 18% x 5/12 of a year).

	Uncollected from Taxpayers Thru March Installment	Delinquent (Pre-April)	Delinquent (Post-March)	Total Delinquent	Cash Flow (Paid Sept)	Paid at Installment
Total All Suburban Communities	\$ 100,081,000	\$ 12,467,000	\$ 7,711,000	\$ 20,178,000	\$ 26,525,000	\$ 53,378,000
Pcntg of Uncollected	100%	12.46%	7.70%	20.16%	26.50%	53.34%

The mitigation opportunity would be to consider this lost interest and penalty income as related to COVID-19 and thus recoverable from CARES funding. The lost interest and penalty income could only be applied to delinquent taxes from 2020 that are collected by December 31, 2020, since CARES Act funding only applies to costs incurred before December 31, 2020. The County estimates that it will recover 30% of the delinquent taxes by December 31. This would limit the CARES recovery to an estimated 30% of the amount or \$178,000. In addition, CARES funding was not intended to cover lost revenue only costs incurred. We continue to review continuing guidance regarding this matter.

Municipalities are allowed to charge interest and penalties on delinquent taxes while the taxes are the responsibility of the municipality. For 2019 assessed taxes collected in 2020, municipalities have the responsibility for collection and assessment of interest from February 1 to July 31. After July 31, the taxes become the responsibility of the County and therefore are assessed by the County. Such penalty and interest assessment by the County can go back to February 1, when the taxes were originally due.

Administrative cost of changing computer software programs and processing an increased volume of delinquent taxes.

If the County Board approves a resolution to allow for the deferment of interest and penalties on post-March delinquent taxes the County would be required to make software program changes to tax collection software. In a discussion with the County's software vendor for tax collection software, the vendor indicated that if the County passes a resolution to defer the collection date and interest and penalties, the County would need to upgrade to the vendors new software. The cost of such upgrade for the County and all suburban municipalities would be \$200,000. The County has a long-standing agreement with the suburban municipalities that if they use the same software system as the County, the County would pay the annual administrative fee and any upgrade fees. This agreement reduces a lot of manual effort and County expense during the time of transfer of delinquent taxes in August.

In addition, the County would have an increase in the amount of delinquent taxes it would be responsible to collect as a result of the delayed final due date of October 1, 2020. The additional collections would either require additional overtime of Treasurer staff or the hiring of additional personnel to help with the added collections. The estimated cost of this additional time or personnel is \$25,000.

There are some mitigation opportunities available to the County related to these costs. For one, the County could request that suburban municipalities continue to maintain the collection of property taxes, who pass a similar resolution to defer taxes. This would help reduce the personnel cost to the County. The only way to effectuate this mitigation is to modify the property tax software.

Another mitigation effort would be to apply to the cost of the software and personnel to the CARES funding since it was expended as a result of legislation to deal with COVID-19. In addition, the legislation provides an economic benefit to taxpayers to deal with COVID-19 including job loss, or furloughs.

Loss of cash flow for the period of August 20, 2020 to October 1, 2020.

By providing a waiver of interest and penalties from February 1 to October 1, taxpayers are likely to either defer payments to increase their cash flows or simply to allow more time for them to

make payments. The loss of cash flow for two months is estimated to be approximately \$15 million for the County. The cash flow benefit would be to taxpayers who choose to use this resolution to defer payment from July to September. The County would pay the \$15 million to the municipalities for settlement on August 20, which would then be collected by the County by the revised due date of September 30, 2020. Lost interest to Milwaukee County would amount to \$25,000 ($\$15 \text{ million} \times 1\% \text{ investment rate} \times 2/12 \text{ of a year}$).

While not significant, there are mitigation opportunities which could reduce this cost. The County could move the final settlement date for a portion of the taxes to September 20, 2020. For example, the County could ensure that 95% of the total assessed taxes are paid on August 20, 2020. The remaining 5% would be paid on September 20, 2020.

Other background information:

Property taxes assessed for 2019 are paid by taxpayers to municipalities in 2020. While taxes are originally due by January 31st, communities can establish installment plans. Installment plans must require that taxpayers make final payment by July 31. Most communities have installment plans which have payments due on January 31, March 31, and May 31st. If any installment plan payment is missed, the taxpayer's account is considered delinquent and all remaining installment payments immediately come due. After each installment payment date, the municipality takes all the taxes it has collected and proportionately allocates such taxes to the other taxing jurisdictions including the County, Milwaukee Metropolitan Sewerage District (MMSD), Milwaukee Area Technical College (MATC), and the local school district.

On the date of delinquency, the municipality is allowed to charge interest and penalties on the delinquent taxes. Interest payments are equivalent to 1% per month or 12% per year, while penalties are 0.5% per month or 6% per year. This is the same rate the County charges to taxpayers on delinquent taxes. The interest and penalty are calculated with simple interest and charged only on the principal of the delinquent taxes. Any payments on delinquent taxes are first applied against interest and penalties and then to the principal of the property tax.

On July 31, municipalities make their final collection and prepare to turn over their delinquent taxes to Milwaukee County. On August 15, a listing of all delinquent taxes and any remaining collections are paid to the County. On August 20, the County pays the municipalities for their turned over delinquent taxes. The County is then responsible for the collection of such delinquent tax.

The language found in Section 105(25), Nonstatutory Provisions, on page 23 of Act 185 provides as follows:

(25) INTEREST ON LATE PROPERTY TAX PAYMENTS. Notwithstanding ss.74.11, 74.12, and 74.87, for property taxes payable in 2020, after making a general or case-by-case finding of hardship, a taxation district may provide that an installment payment that is due and payable after April 1, 2020, and is received after its due date shall not accrue interest or penalties if the total amount due and payable in 2020 is paid on or before October 1, 2020. Interest and penalties shall accrue from October 1, 2020, for any property taxes payable in 2020 that are delinquent after October 1, 2020. A taxation district may not waive interest and penalties as provided in this subsection unless the county board of the county where the taxation district is located first adopts a resolution authorizing such waiver and establishing criteria for determining hardship, and the taxation district subsequently adopts a similar resolution. A county that has adopted a resolution authorizing the waiver of interest and penalties under this subsection shall

settle any taxes, interest, and penalties collected on or before July 31, 2020, on August 20, 2020, as provided under s. 74.29 (1), and settle the remaining unpaid taxes, interest, and penalties on September 20, 2020. The August 20, 2020, settlement shall be distributed proportionally to the underlying taxing jurisdictions.

Installment Dates of Milwaukee County municipalities:

Property Tax Payment Installment Dates										
Municipality	January	February	March	April	May	June	July	August	September	October
Bayside	1/31		3/31		5/31					
Brown Deer	1/31		3/31		5/31					
Fox Point	1/31		3/31		5/31					
Greendale	1/31			4/30			7/31			
Hales Corners	1/31			4/30			7/31			
River Hills	1/31		3/31		5/31					
Shorewood	1/31		3/31		5/31					
West Milwaukee	1/31			4/30			7/31			
Whitefish Bay	1/31		3/31		5/31					
Cudahy	1/31		3/31		5/31					
Franklin	1/31		3/31		5/31					
Glendale	1/31		3/31		5/31					
Greenfield	1/31			4/30		6/30				
Milwaukee*	1/31	2/28	3/31	4/30	5/31	6/30	7/31	8/31	9/30	10/31
Oak Creek	1/31		3/31		5/31					
Saint Francis	1/31		3/31		5/31					
South Milwaukee	1/31			4/30			7/31			
Wauwatosa	1/31		3/31		5/31					
West Allis	1/31		3/31		5/31					

*City of Milwaukee offers a ten-month payment option.

Table of Delinquent Taxes and Settlement by Year End:

Assessed Tax Year	Paid Tax Year		County Delinquent Tax Settlement in August		Parcels that are Delinquent		Unpaid Delinquent Taxes at Year End	Pcntg of Delinquent Taxes Paid by Year End
2019	2020	Est	\$ 20,178,000	Est	6,389	Est	\$ 14,000,000	30.6%
2018	2019	Act	\$ 7,056,000	Act	2,234	Act	\$ 4,411,000	37.5%
2017	2018		\$ 7,212,000		2,152		\$ 4,713,000	34.7%
2016	2017		\$ 8,541,000		2,401		\$ 4,940,000	42.2%
2015	2016		\$ 8,531,000		2,511		\$ 5,253,000	38.4%
2014	2015		\$ 8,964,000		2,535		\$ 5,305,000	40.8%
2013	2014		\$ 9,648,000		2,713		\$ 5,960,000	38.2%