

Property Tax and Water Credit Balances

Date:	October 17, 2008
To:	Audit Committee
From:	Acting Treasurer
Wards:	All
Reference Number:	P:\2008\Internal Services\Rev\au08023rev (AFS#8161)

SUMMARY

This report provides information on credit balances in the City's property tax and water accounts.

Financial Impact

There are no financial implications arising from the receipt of this report.

DECISION HISTORY

At its meeting held on July 10, 2008, the Audit Committee requested the Deputy City Manager and Chief Financial Officer to report to its November 6, 2008 meeting on all outstanding credit balances in City accounts, including the age of the credits (re: Audit Committee Meeting 8, Agenda Item AU8.1 titled "City of Toronto – 2007 Audited Consolidated Financial Statements"). Below is the link to the Committee decision document. The relevant reference is located on page 2, motion 2 (iii):

<http://www.toronto.ca/legdocs/mmis/2008/au/decisions/2008-07-10-au08-dd.pdf>

ISSUE BACKGROUND

At its meeting held on July 10, 2008, the Audit Committee deferred for debate to its November 2008 meeting a report (June 23, 2008) from the Treasurer summarizing the major deposits held by the City as at April 25, 2008 – "Inventory of Major Deposits" (re: Audit Committee Meeting 8, Agenda Item AU8.7). Below are the links to the Committee decision document (the relevant reference is located on page 10), the staff report and the accompanying appendix:

<http://www.toronto.ca/legdocs/mmis/2008/au/decisions/2008-07-10-au08-dd.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/au/bgrd/backgroundfile-14365.pdf>

<http://www.toronto.ca/legdocs/mmis/2008/au/bgrd/backgroundfile-14366.pdf>

The Inventory of Major Deposits report identifies a significant portion of all outstanding credit balances in City accounts, excluding credits on tax and water accounts.

This report summarizes the credit balances in the City's property tax and water accounts.

The Revenue Services Division administers:

- a) approximately 669,500 property tax accounts (approximately 626,000 residential accounts and 43,500 multi-residential, commercial, industrial and mixed use accounts), and collects in excess of \$5.2 billion dollars in annual property tax revenue for both municipal (\$3.3 billion) and education purposes (\$1.9 billion);
- b) approximately 476,000 water accounts, collecting annual revenues of approximately \$600 million.

In accordance with provincial legislation, property taxes are levied against a parcel of land or property; they are not levied against an individual. Water charges are also the responsibility of the property owner. Outstanding property taxes and water charges levied form a lien on the title of the property and stay with the property even when the property is sold or changes ownership.

At its meeting held on June 22, 23 and 24, 2004, City Council adopted the following resolutions / policies aimed at improving the property tax refund process (re: Clause 11 in Administration Committee Report 4 titled "Overpayment of Property Taxes"):

- (1) all credit balances on property tax accounts resulting from assessment appeals shall be credited or refunded directly to whomever the Tribunal directs in its decision, and if no payee is named in the decision, to the current assessed owner, in accordance with section 341 of the *Municipal Act, 2001*; and where there has been a change in the assessed owner(s) since the date the decision was released by the Tribunal, the Director, Revenue Services, will require an executed Indemnification Agreement in a form satisfactory to the City Solicitor before any refund shall be made;
- (2) credit balances on all tax accounts of less than one hundred dollars (\$100) shall be applied as a credit to the tax account of the current assessed owner of said property, and, where requested in writing, credit amounts between fifteen dollars (\$15) and one hundred dollars (\$100) will be refunded directly to the current assessed owner by way of a cheque;

- (3) for residential tax accounts with credit balances over one hundred dollars (\$100), credit amounts shall be credited or refunded to the current assessed owner of the property, upon receipt by the City of a written refund request signed by the current assessed owner, together with an Indemnification Agreement in a form satisfactory to the City Solicitor (no proof of payment required);
- (4) for all other tax accounts, credit amounts shall be credited or refunded to the individual who made the overpayment, provided the City is in receipt of a written refund request signed by the claimant, together with an Indemnification Agreement in a form satisfactory to the City Solicitor, and proof in a form satisfactory to the Director, Revenue Services or a designate, that the said owner made the payment for which the refund is requested; and
- (5) in the event that the City has not received a request for a refund, or a signed Indemnification Agreement and/or proof that the said owner made the payment for which the refund is requested, and no refund is issued by the City, all credit balances shall be held in trust for one year, and will then be transferred to the City's Tax Repayment Account (re: Account No. 215161).

In a report (June 7, 2005) the Treasurer provided information on the implementation of the new tax refund processes approved by Council in June 2004 [re: Clause 32(b) in Administration Report 6 which was received for information by City Council at its meeting held on July 19, 20, 21 and 26, 2005].

The links to the 2004 and 2005 Council decisions and staff reports are provided below:
<http://www.toronto.ca/legdocs/2004/agendas/council/cc040622/cofa.pdf>

<http://www.toronto.ca/legdocs/2004/agendas/committees/adm/adm040602/it013.pdf>

<http://www.toronto.ca/legdocs/2005/agendas/council/cc050719/cofa.pdf>

<http://www.toronto.ca/legdocs/2005/agendas/committees/adm/adm050628/it009.pdf>

COMMENTS

Property Tax Credit Balances:

As at the beginning of October, 2008 there were 62,529 property tax accounts with credit balances totalling approximately \$67.7 million. This represents:

- 9.3% of the total number of tax accounts (62,529 accounts with credit balances out of the approximately 669,500 total tax accounts); and,
- 1.3% of the total 2008 municipal and school board levy.

Of the 62,529 tax accounts with credit balances:

- a) 33,544 (or 54%) have a credit of \$100.00 or less. These 33,544 accounts represent approximately \$312,000 in credit balances. Tax credits of \$100 or less are automatically applied as a credit to the current assessed owner's next interim and/or final tax levy. As such, tax credits of \$100 or less are normally not held for longer than six months;
- b) 28,985 (or 46%) have a credit of over \$100. These 28,985 accounts represent approximately \$67.4 million in credit balances. Of the \$67.4 million in credit balances:
 - approximately \$20.1 million (or 30%) are related to residential accounts;
 - approximately \$47.3 million (or 70%) are non-residential (i.e. multi-residential, commercial and industrial) and mixed use properties.

Table 1, below, summarizes the total number and dollar value of credit balances on the City's property tax accounts.

Table 1: Credit Balances on Tax Accounts - October 9, 2008

Age of Credit	TOTAL		Residential		Non-Residential (Multi-Residential, Commercial, Industrial, Mixed Use)	
	\$ 000's	#	\$ 000's	#	\$ 000's	#
Credit Balances over \$100.00:						
1 to 90 days (3 months or less)	\$34,343.5	9,663	\$8,175.8	8,578	\$26,167.7	1,085
91 to 180 days (4 to 6 months)	\$3,978.4	2,033	\$1,754.1	1,851	\$2,224.3	182
181 to 540 days (7 to 18 months)	\$12,259.9	7,740	\$5,203.5	6,748	\$7,056.4	992
Sub-Total: (18 months or less)	\$50,581.8	19,436	\$15,133.4	17,177	\$35,448.4	2,259
541 to 1080 day (19 to 36 months)	\$8,084.6	5,431	\$3,114.4	4,842	\$4,970.2	589
Greater than 1080 day or 36 months	\$8,711.4	4,118	\$1,821.7	3,326	\$6,889.7	792
Total: Credits Over \$100	\$67,377.8	28,985	\$20,069.5	25,345	\$47,308.3	3,640
Credit Balances under \$100.00: (these credits are primarily under 6 month of age & will be applied as a credit on 2009 interim and/or tax bills)						
Credit Balances of \$100 or less	\$311.9	33,544	\$283.0	31,393	\$28.9	2,151
TOTAL CREDITS	\$67,689.7	62,529	\$20,352.5	56,738	\$47,337.2	5,791

In accordance with Council approved policy, credit balances of \$100 or less will be automatically applied as a credit on the next interim and/or final tax bill.

Of the \$67.3 million representing credits over \$100:

- A significant portion (57% or \$38.2 million) are six (6) months of age or less:
- 18% are 7 to 18 months of ages;
- 12% are 19 to 36 months; and,
- the balance (13%) are over 36 months.

The vast majority of credits over \$100 which are six (6) months of age or less will be processed within the next three (3) to six (6) months as property owners submit the required proof of payment documentation or Indemnification Agreement.

As explained in the 2004 and 2005 staff reports (links are provided above under the Issue Background section of this report), the City is legislatively required to refund any overpayment / credit to the individual that made the payment. As such, staff must exercise appropriate due diligence to ascertain that where credit balances or overpayments have occurred, the amount of the overpayment/credit is correctly refunded to the individual that made the payment. The only exception to this practice relates to credit balances resulting from an assessment appeal reductions. Effective January 1, 2007, the *City of Toronto Act, 2006* (section 306) provides that refunds related to assessment appeals shall be refunded to the owner of the land as shown on the tax roll on the date the adjustment is made.

Staff are actively working on processing all credit balances, while ensuring that credit amounts are correctly refunded to the appropriate taxpayer. The majority of credit balances over 18 months of age have had at least one, if not two, credit notification letters issued (with indemnification agreements) and or multiple written correspondence identifying the requirement of a statement of adjustment to address the more complex change in ownership situations. Credit balances on non-residential and mixed use accounts are more complex than the residential accounts, since they have larger credit balances, fractural/multiple ownership and potentially involve numerous ownership changes. Due to these factors, the time and effort required to refund these credits is much greater than would be required on residential accounts.

Water Credit Balances:

Table 2, below, provides information water accounts (both active and in-active accounts) that are in a credit position as at October 14, 2008.

**Table 2: Credit Balances on Active & Inactive Water Accounts
as at October 14, 2008**

Age of Credit	\$ 000's	# of Accounts
Active Water Accounts (Majority are under 4 months of age. These credits will be automatically applied on the next water bill.)	\$9,511.2	58,725
Inactive Water Accounts (Note 1)		
1 to 360 Days (12 months or less)	\$1,341.3	7,227
361 to 720 Days (13 to 24 months)	\$796.5	5,512
721 to 1080 Days (25 to 36 months)	\$650.6	3,082
Greater than 1080 Days (or 36 months)	\$1,341.9	7,471
Sub-total: Inactive Accounts	\$4,130.3	23,292
Total: Active & Inactive Accounts	\$13,641.5	82,017

Note 1: A water account becomes inactive once a property's ownership changes.

Of the \$13.6 million in credit balances:

- 70% (or \$9.5 million) relates to active water accounts. These credits will be processed / refunded within the next four (4) months as credits on active water accounts are automatically applied as an offset on the property owner's next water bill. Upon written request and with supporting documentation, staff will issue a refund cheque for the amount;
- 30% (or \$4.1 million) relates to inactive water accounts. At the time of an ownership or tenancy change, property owners request a final water meter read and a final water bill is then issued to the outgoing customer. Any credits on the account are applied to offset the final water charge. In circumstances where the credit is larger than the final bill charge, the outgoing customer is advised on the final bill to contact the Revenue Services Division for a refund. To receive a refund for any final credit balances on inactive accounts, the water customer is required to provide proof of payment for their applicable ownership or tenancy period. Staff will continue to actively work on obtaining the necessary documentation to refund these credits to the appropriate individual.

Unclaimed Property Tax and Water Credit Balances:

Once all due diligence has been exhausted and staff have been unsuccessful in obtaining all required documentation and/or proof of entitlement, the remaining credit balance is held on the account for at least one year and then transferred to suspense in accordance with the Council adopted policies and procedures.

Credits are held in suspense for at least four (4) years prior to being moved to general revenue. At any time, a taxpayer/water ratepayer can claim these credits and receive a refund providing that the claim can be substantiated, even after the credits have been transferred to general revenue.

CONTACT

Nick Naddeo Manager, Revenue Accounting and Collections: Tel: 416-395-6789
Casey Brendon, Acting Director, Revenue Services: Tel: 416-395-0125

SIGNATURE

Giuliana Carbone
Acting Treasurer