

**Administration of Major Deposits and Credit Balances
related to Property Tax and Water Billings**

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| Date: | June 8, 2009 |
| To: | Audit Committee |
| From: | Acting Treasurer |
| Wards: | All |
| Reference Number: | P:\2009\Internal Services\acc\ac09008acc (AFS# 8850) |

SUMMARY

This report outlines the processes that City programs follow in administering and, where applicable, refunding deposits held by the City.

Additionally, information is provided with respect to the feasibility of publicly posting outstanding credit balances collected from taxpayers on the City's website, and the steps that staff are taking with respect to moving forward on this initiative.

Financial Impact

The cost of developing a system/web-page to accommodate the public posting of credit balances collected from taxpayers, residents and/or businesses cannot be determined at this time. Staff are currently working with the City's Corporate Access and Privacy Office and Corporate Information and Technology (I&T) Division on the design of the database and web-page and there is no financial implication. However, once the design is completed, capital and operating costs will be estimated and identified within the Office of the Treasurer's future budget submissions, and subject to operating and capital budget approval process.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on November 4, 2008, Audit Committee, in considering a report from the Treasurer titled "Inventory of Major Deposits" (re: Agenda Item [AU9.12](#)), requested

the Treasurer to report on how the City deals with returning external deposits that don't belong to the City.

See: <http://www.toronto.ca/legdocs/mmis/2008/au/decisions/2008-11-04-au09-dd.pdf>

Additionally, at its meeting held on March 2, 2009, the Audit Committee, in considering a report from the Acting Treasurer titled "Property Tax and Water Credit Balances" (re: Agenda Item AU10.10) requested the Acting Treasurer to report on:

- a) the feasibility of posting on the City's website, information regarding outstanding credit balances collected from the taxpayer (for such things as trees, sidewalks, property taxes, and water); and,
- b) steps that might be usefully taken to address the issue of unclaimed credit balances.

See: <http://www.toronto.ca/legdocs/mmis/2009/au/decisions/2009-03-02-au10-ds.htm>

ISSUE BACKGROUND

The City collects deposits from property owners, based on authority obtained from various Acts, for two basic reasons:

- 1) Performance/Security Deposits:
 - These deposits protect the City against property damage that may result from private work performed by third parties on or near City property.
 - The deposit is collected at the time the request is made to perform the work.
 - Once the work is complete or a specified guarantee period has expired, the City is called to inspect.
 - If there has been no damage to City property, the deposit is returned.
 - If there is damage, the City can draw upon the deposit for repairs.
- 2) Conditional Deposits:
 - These deposits are a prepayment for City services and are generally associated with new construction.
 - The deposit is collected at the time the third party applies for permission to undertake construction.
 - Prior to 2006, there were two types of Conditional Deposits:
 - a) Standard Fee: In cases where a standard fee is charged for the City service (such as the standard fee charged for residential water and sewer installations), the deposit is taken into income once the work is completed by the City.
 - b) Estimated Fee: If the deposit was based on an estimate of the cost to perform the work, upon completion a portion of the deposit may be

returned, or the third party may be billed an additional amount, once the actual cost of the service is known.

- Effective January 2006, Divisions no longer use “Estimated” fees for Conditional Deposits with the exception of Toronto Water, which charges estimates for water consumption over 50 m³ by developers. Their balance of \$77,000 is included within the group of Others, under Conditional Deposits in Appendix A.

Appendix A, attached, provides a summary of deposits held as at May 22, 2009 with a comparison to total deposits held one year prior. 70% of all deposits held as at May, 2009 are from commercial/industrial organizations and 30% are related to residential homeowners.

COMMENTS

Returning External Deposits

Accounting Services has reviewed the deposit management processes across the City and has worked closely with Policy, Planning, Finance & Administration in Cluster B and Program Divisions to resolve any issues in relation to returning external deposits, as well as documenting and enhancing processes with the intention of better facilitating the refund process. As a result, the deposits prior to 2006 held by the City have decreased since May, 2008 by approximately 42% or \$8.9 million.

Divisions are continuing to work on reducing the older outstanding balances. However, sometimes Divisions’ attempts to contact the applicants have not been successful. An advertisement was placed in the newspaper, on March 31, 2009 to advise the applicants of approximately \$ 1.5 million in deposits and that the City will be processing refunds as requested. Once all efforts to locate applicants have been exhausted, any unclaimed deposits will be transferred to City’s revenue account. However, all subsequent refund requests received by the City will be honoured.

Appendix B, attached, provides a summary of the existing processes for administering the City’s various deposits as well as process refinements that have recently been implemented or are being implemented in the near future.

Returning Unclaimed Tax Credits

The following summarizes the current property tax refund process as approved by Council and / or legislated under the City of Toronto Act (COTA):

- (1) all credit balances on property tax accounts resulting from assessment appeals/adjustments to the tax roll shall be credited or refunded to the owner of the land as shown on the tax roll the date the adjustment is made, in accordance with section 306 (2a) of the *City of Toronto Act, 2006*; and where there has been a change in the assessed owner(s) since the date the assessment appeal decision/adjustment to the roll was released by the Tribunal, the current owner can request the City to refund the applicable prior owner via an executed legal letter of direction to the Director, Revenue Services, in a form satisfactory to the City Solicitor;
- (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/or 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 an effort to further streamline the refund process Revenue Services staff, working closely with Internal Audit, undertook an analysis of the current \$100 dollar threshold used in applying credits directly to the current assessed owner. Staff will report to Government Management Committee and City Council with recommended amendments to the existing policy prior to the issuance of the 2010 interim tax bills.

Posting Credit Balances on City Web Site

Staff from Accounting and Revenue Services reviewed the Bank of Canada website, which shows all financial institutions' unclaimed balances on public accounts. It is the only website of this kind in Canada and City staff are pursuing the implementation of a similar interactive database to provide the taxpayers with their unclaimed credit balance information. The inter-active website is user-friendly and provides a degree of security with respect to the disclosure of personal information that is not available if the City were to simply post a single report on its website listing all credit balances.

Based on its review of the Bank of Canada site, staff, in consultation with Corporate I&T, developed a high level design for an interactive database that the general public could access on the City's website to identify credit balances held by the City in their name.

It is proposed that the database will be updated quarterly and disclose the following information:

- Name of Applicant/Property Owner
- Address/Legal Site Description
- Assessment Roll Number
- Nature of Deposit / Credit
- Value of Deposit/Credit by Year

As part of the database design, staff consulted with the City Solicitor's office to understand the legislative requirements that might govern or impact the administration of such a database. Section 8 of the *City of Toronto Act, 2006*, provides a broad authority for the provision of any service or thing by the City, such as the creation of a database, that Council may consider to be "necessary or desirable" for the public. Subsection 8(2) of the Act establishes legislative authority for the City to deliver a service respecting the accountability and transparency of the City and its operations. The proposed database for outstanding credit balances would appear to be consistent with the authority under the *City of Toronto Act, 2006*, if the City determined that such a database provided a desirable increase in the accountability and transparency of the City's operations. At this stage, we anticipate the costs for this interactive database to be insignificant.

However, City operations are also subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"). It appears that posting the name of the applicant / property owner could constitute the disclosure of what MFIPPA defines as personal information. To ensure that the proposed database is compliant with MFIPPA, staff have been advised to work with the City Corporate Access and Privacy

Office and the City Solicitor's Office to undertake a Privacy Impact Assessment (PIA). Provided we can develop the database in such a way as to comply with MFIPPA requirements, staff intend to include in the Office of the Treasurer's 2010 capital budget submission, sufficient funds to develop and launch a database which will allow the general public to search by name and property address for any outstanding credit balances.

CONTACT

Mike St. Amant
Director, Accounting Services
Tel: 416-397-4438
Fax: 416-392-8003
Email: mstamant@toronto.ca

Carol Moore
Executive Director,
Policy, Planning, Finance & Administration
Telephone: 416-397-4669
Fax: 416-392-4540
Email: cmoore1@toronto.ca

Casey Brendon
Acting Director, Revenue Services
Tel : 416-392-8065
Fax : 416-696-3778
Email : cbrendo@toronto.ca

SIGNATURE



Giuliana Carbone
Acting Treasurer

ATTACHMENTS

Appendix A: Age Analysis of Deposits
Appendix B: Performance Deposits