



**STAFF REPORT
ACTION REQUIRED
With Confidential Attachment**

Canada Revenue Agency (CRA) – Employer Compliance Audit

Date:	June 10, 2016
To:	Executive Committee
From:	Deputy City Manager & Chief Financial Officer
Wards:	All
Reason for Confidential Information:	This report is subject to solicitor/client privilege. This report contains communications about labour relations of employment related matters.
Reference Number:	P:\2016\Internal Services\ppeb\ec16010ppeb (AFS23311)

SUMMARY

The purpose of this report is to provide Council with the results of the recent Canada Revenue Agency (CRA) Employer Compliance Audit regarding parking locations at all Toronto Paramedic Services (TPS) and Toronto Fire Services (TFS) work locations, and to obtain direction regarding the action to be taken to implement and respond to the results of the audit. The City actions proposed in confidential attachment 1 and the treatment of TPS and TFS employees is the same with respect to similar CRA parking audits for the Police and other City employees.

RECOMMENDATIONS

The Deputy City Manager & Chief Financial Officer recommends that:

1. City Council adopt the recommendations and instructions to staff contained in Confidential Attachment 1.
2. City Council authorize the payment of funds required to carry out the instructions contained in Confidential Attachment 1 from the Benefits Reserve Fund.

3. City Council authorize the public release of Confidential Attachment 1 at the conclusion of the City Council meeting.

Financial Impact

The financial impacts of this report are set out in Confidential Attachment 1.

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

DECISION HISTORY

City Council at its meeting of May 11 and 12, 2010 considered the matter of the CRA Employer Compliance Audit of parking access for the City's six (6) controlled parking locations (City Hall, Metro Hall, Scarborough Civic Centre, East York Civic Centre, North York Civic Centre and 110 Wellesley Street), and City Council approved an Employee Reimbursement Program for the employees impacted at those six (6) locations.

City Council approved an Employee Reimbursement Program that provided payment (either directly to the CRA or to the employee) for the tax and interest owing for the 2006 to 2010 tax years from the impact of the CRA's decision that parking access at six controlled parking lots was a taxable benefit.

In addition, Council agreed to pay the tax (*i.e.*, the grossed up amount) for any payments made to or on behalf of employees in accordance with the above, in order to off-set the effect of such payments being recognized as a taxable benefit to the recipient employee.

The following is the link to the report and decision document:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.CC49.2>.

City Council at its meeting of November 29, 30 and December 1, 2011 considered the matter of the Employer Compliance Audit for the City's six (6) controlled parking locations and a status update on the actions taken by staff with regard to a potential settlement with the CRA. The following is the link to the report and decision document:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.CC14.9>.

ISSUE BACKGROUND

In September 2013, the CRA commenced a follow-up Employer Compliance Audit in which the CRA reviewed three (3) issues:

1. Review of the Tax Benefit Assessment paid by the City on behalf of employees who participated in the 2010 and 2013 Reimbursement Programs;
2. Review of the travel logs from all regular Business Users for the years 2011 and 2012; and
3. Review of the City's uncontrolled parking locations to determine whether a parking taxable benefit may exist for certain City employees. This matter was subsequently separated into audits of TPS/TFS work locations and Non-TPS/TFS uncontrolled parking locations. Ultimately, the CRA chose to proceed with an audit of only the TPS and TFS work locations.

Items 1 and 2 have been resolved.

For item 3, the City and CRA have continued discussions over the last two-plus years with regard to the determination of the existence and value of any parking taxable benefit for TPS and TFS work locations.

At the commencement of the CRA's review, the audit team was considering only the 2010, 2011 and 2012 tax years. As the discussions continued, the scope of the Audit expanded to include the 2013, 2014 and 2015 tax years.

COMMENTS

The CRA and the City have since 2013 been discussing the scope and progress of the CRA's audit of TPS and TFS employees for potential parking taxable benefits in respect of the parking access for such employees at TPS and TFS work locations in the City.

The following summarizes the discussions that have occurred as between City staff and the CRA regarding this issue. At this time, the discussions have concluded by way of an agreement between the City and the CRA regarding the tax treatment of parking access at these locations.

PART I – SUMMARY OF DISCUSSIONS WITH CRA

Initially, the CRA intended to assess a parking taxable benefit for TPS and TFS employees for the 2010 and subsequent years. The CRA also sought and obtained a report on the fair market value of parking at each TPS and TFS work location in the City.

Since 2014, there have been several meetings with CRA and the City. However, the City was not able to obtain from the CRA a mutually-acceptable methodology for determining the existence and value of any parking taxable benefit for TPS and TFS employees at the subject work locations.

The City proposed that the CRA agree to a blended rate approach through which all TPS and TFS employees would be assessed the same taxable benefit. The blended rate approach is consistent with the methodology accepted by the CRA in an audit that it had previously undertaken of the parking taxable benefits of Toronto Police Service employees. While the CRA initially indicated that the blended rate approach could be acceptable, it also advised City staff that it would not agree to such an approach.

Notwithstanding this advice, commencing in January of 2015 discussions focussed on the use of the same blended rate approach as had been utilized for the Toronto Police Service audit. In January of 2016, the CRA informed the City in that the CRA was committed to implementing a blended rate approach for TPS and TFS employees.

This proposed assessing position was subsequently confirmed in a letter from the CRA dated March 1, 2016.

Summary of CRA's Audit Position and Proposal

Tax Years

The CRA agreed that it would not assess a parking taxable benefit for TPS and TFS employees for the 2010, 2011 or 2012 tax years, and would immediately proceed with reassessments of only the 2013, 2014 and 2015 tax years.

For 2016 and subsequent years, the CRA expects that the City will implement a payroll system to assess a parking taxable benefit for Paramedic and Fire employees, with appropriate adjustments to the value of such benefit (*i.e.*, inflation or cost of living).

Value of the Parking Taxable Benefit – The Blended Rate

In July of 2015, the CRA advised that based on the conclusions of its Appraisal Report dated February 18, 2015 and certain subsequent calculations, the CRA had concluded that a blended rate fair market value of the parking access of TPS and TFS employees was \$720/year for 2013 and \$792/year for 2014.

City staff expressed concerns with the assumptions, methodology and conclusions of the Appraisal Report. In response, the CRA advised that it did not intend to calculate a blended rate based on the alleged valuations described in the Appraisal Report.

Instead, the City has proposed and the CRA has agreed, that the appropriate blended rate is one that achieves fairness and maintains consistency of application across all the City's emergency services. In other words, the blended rate used for TPS and TFS employees should be the same blended rate used in the audit and assessment of the Toronto Police Service employees, as follows:

- 2013 → \$425/year
- 2014 → \$425/year
- 2015 (January-September) → \$425/year (pro-rated)
- 2015 (October-December) → \$650/year (pro-rated)
- 2016 → \$650/year

As a condition of the CRA's agreement to use the blended rate noted above for the purposes of determining the value of the parking taxable benefit to all TPS and TFS employees, the CRA required the City to agree that it would not object to any reassessments issued to the City for 2013, 2014 or 2015 as a result of this audit, and that it would not offer support to any TPS and TFS employees who choose to object to their 2013, 2014 or 2015 reassessments.

City staff have determined that the resolution of this matter, as described above, represents the best possible outcome on the CRA's Employer Compliance Audit of the parking access at TPS and TFS work locations.

As a result on April 15, 2016, City staff advised the CRA that it agreed with the above blended rates on the terms required by the CRA.

PART II – SUMMARY OF DISCUSSIONS WITH THE CITY'S AFFECTED UNIONS AND ASSOCIATIONS

Over the last two years City staff met with the Unions/Associations who represent affected TPS and TFS employees of the City in order to make them aware of the CRA's Employer Compliance Audit of the parking access at TPS and TFS work locations and to provide the Unions/Associations with updates on the discussions between the City and the CRA.

Since receiving the CRA's letter of March 1, 2016, City staff have met with each of the bargaining agents and COTAPSA and provided them with a summary of the proposed resolution of the matter. The bargaining agents and COTAPSA understand that the CRA will be proceeding with the reassessments for the 2013 and 2014 and 2015 tax years. On April 25, 2016, a memo was sent out to all TPS and TFS employees to advise them of the CRA's decision and the impact of that decision.

At each of the meetings between City staff and the relevant Unions/Associations, they requested that the City approve an Employee Reimbursement Program for affected TPS and TFS employees for the 2013, 2014 and 2015 tax years on similar terms as were approved for City employees who were impacted by the 2010 CRA Employer Compliance Audit of the six controlled parking locations. Details of such a program are set out in the Confidential Attachment to this Report.

CONTACTS

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SIGNATURE

Roberto Rossini
Deputy City Manager & Chief Financial Officer

ATTACHMENTS

Confidential Attachment 1