TORONTO CITY CLERK

Clause embodied in Report No. 16 of the Policy and Finance Committee, as adopted by the Council of the City of Toronto at its meeting held on December 4, 5 and 6, 2001.

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2001 Write-Off of Uncollectable Taxes from the Tax Collector's Roll

(City Council on December 4, 5 and 6, 2001, adopted this Clause, without amendment.)

The Policy and Finance Committee recommends the adoption of the following report (November 9, 2001) from the Chief Administrative Officer and Acting Chief Financial Officer:

Purpose:

To seek authority to remove from the Tax Collector's Roll certain taxes deemed uncollectable by the Treasurer.

Financial Implications:

The amount of business occupancy taxes (BOT) that are deemed uncollectable and therefore require removal from the Tax Collector's roll in 2001 is $5,089,900.87, which includes interest to November 30, 2001. Approximately $1,294,421.58 of this amount is the City's share of taxes, with an additional $2,117,706.55 in lost interest revenue for a total City share of $3,412,128.13. The balance of approximately $1,664,468.69 is the school boards' share and will be recovered.

The BIA total amount of $13,304.05 is for each of the former cities of Toronto, Scarborough, York and Etobicoke. This is offset by an allowance amount set aside for this purpose as part of the BIA levy and does not have a financial impact to the City. A breakdown of the recommended strike-offs is in Schedule "A" attached.

The amount recommended to be written off is provided for in the 2001 tax deficiency budget.

Recommendations:

It is recommended that:

(1) uncollectible business occupancy taxes of $5,089,900.87, which included interest to November 30, 2001, be stricken from the Tax Collector's Roll pursuant to the provisions of section 441 of the *Municipal Act;* and

(2) the amount attributable to uncollectible taxes from Business Improvement Areas (BIA) in the amount of $13,304.05 be written off as a receivable under section 441.

Background:

Prior to the introduction of the Current Value Assessment (CVA) in 1998, municipalities levied for both realty and business occupancy taxes. Effective January 1, 1998, provincial legislation eliminated the Business Occupancy Tax (BOT). The BOT was the source of a large portion of a municipality's tax arrears, and municipalities and businesses alike requested its elimination.

Business occupancy taxes and other charges levied as taxes, such as business improvement areas (BIAs), can be struck from the Tax Collector's Roll under the provisions of section 441 of the *Municipal Act*, R.S.O. 1990. The section 441 process differs from other tax related adjustments because only Council can approve the write-offs being removed from the roll. The process does not include cancellation of taxes due to assessment appeals.

Section 441 of the *Municipal Act* states "Where the Treasurer ascertains that certain receivables are uncollectable, the Treasurer shall recommend to Council that such outstanding receivables be struck off the roll and the Council may direct the Treasurer to strike such receivables off the rolls."

This report must be approved by Council prior to December 31, 2001, in order to collect back from the school boards their portion of the tax write offs.

Discussion:

The City still has a number of receivables related to 1997 and prior year business occupancy taxes. Including the recommended write-off of $5,089,900.87, the total BOT outstanding as at September 28, 2001, is approximately $30.6 million. Of this amount, approximately $12.2 million is accrued interest.

Business occupancy taxes are billed to the business operator, therefore, these receivables do not form a lien on the land, unlike realty taxes. When a business operator ceases to operate or declares bankruptcy, these amounts become harder to collect upon. After all collection efforts are exhausted, (including some or all collection efforts of internal revenue collectors, bailiffs, collection agencies, inside legal counsel), and if payment arrangements are not achieved, accounts are then recommended to be stricken off from the tax collector's roll as uncollectible.

In an attempt to recover the business tax arrears, and as reported to the Administration Committee and Council in a series of reports over the Fall of 2000, the Finance Department's methods of collection includes such activities as internal revenue collectors conducting a series of telephone calls, mailing of progressive collection letters, and site visits. Once all internal resources have been exhausted, and business taxes remain unpaid, the account is assigned to a bailiff, collection agency or for legal action. Once all collection efforts are exhausted, the Treasurer recommends to Council that such outstanding taxes be struck off the Collector's roll, in accordance with section 441 of the *Municipal Act*.

The tax accounts recommended in this report have gone through the collection processes identified above. In certain cases, payment arrangements were entered into between the taxpayers and the City. Unfortunately, due to bankruptcies and business closures, the City is unable to collect all of the total outstanding amounts. Schedule "A" attached identifies the former municipality and the recommended write-off by year.

The comparable approved write-offs (total City and School) from the past three years is as follows:

Comparable Approved Write-Offs				
	Recommended 2001	2000	1999	1998
Business Occupancy Tax	2,958,890.27	5,111,743.19	9,464,070.89	19,212,684.24
Interest	2,117,706.55	3,011,317.04	4,210,000.00	
Sub-Total	5,076,596.82	8,123,060.23	13,674,070.89	19,212,684.20
Business Improvement Areas	13,304.05	21,687.64	6,920.30	121,974.77
Total	5,089,900.87	8,144,747.87	13,743,991.19	19,334,658.97

Unlike the former BOT, realty taxes form a lien on the land are therefore more collectable, and therefore, municipal tax sale proceedings can be commenced after there are 3 years of tax arrears.

Conclusion:

The list of uncollectible business taxes has been reviewed for each area district by the Tax Collector. All appropriate collection effects have been performed. The taxes are deemed to be uncollectible. It is recommended that Council cancel the uncollectible business occupancy taxes and strike them off from the Tax Collector's Roll. A detailed list of the recommended write-off has been provided to the City Clerk.

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Insert Table/Map No. 1
schedule a