



## STAFF REPORT ACTION REQUIRED

### Property Tax Exemption for Master's College and Seminary – 3080 Yonge Street

<b>Date:</b>	April 28, 2009
<b>To:</b>	Government Management Committee
<b>From:</b>	Acting Treasurer
<b>Wards:</b>	Ward 16 – Eglinton-Lawrence
<b>Reference Number:</b>	P:\2009\Internal Services\rev\gm09016rev (AFS#9596)

#### SUMMARY

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This report seeks Council authority to adopt the necessary by-laws to exempt the portion of the land and building occupied by Master's College and Seminary, a tenant at 3080 Yonge Street, from taxation for municipal purposes, beginning January 1, 2008 and continuing to July 31, 2013 and to cancel taxes for municipal purposes, including interest and penalties for the period from August 1, 2003 to December 31, 2007.

The authority for the property tax exemption/cancellation for the premises occupied by Master's College and Seminary at 3080 Yonge Street is provided under the *Master's College and Seminary Act, 2008*, a private statute which allows the City to pass by-law(s) providing for the property tax exemption/cancellation. Once by-law(s) are passed, the statute provides that the provincial education portion of taxes will also be made exempt or cancelled.

#### RECOMMENDATIONS

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**The Acting Treasurer recommends that:**

1. Council exempt from taxation for municipal purposes the portion of the land and building leased and occupied by Master's College and Seminary at 3080 Yonge Street, beginning January 1, 2008 and continuing to July 31, 2013 provided the following conditions continue to be met:
  - (a) the specified property is occupied and used solely for the purposes of Master's College and Seminary; and

- (b) Master's College and Seminary is a registered charity within the meaning of the *Income Tax Act* (Canada);
2. Council cancel taxes for municipal purposes, including interest and penalties for the period from August 1, 2003 to December 31, 2007, for the portion of the land and building occupied by Master's College and Seminary, located at 3080 Yonge Street, provided that Master's College and Seminary undertakes in writing to repay to the City charity tax rebates in the amount of \$171,159 that it has received for the subject premises for the period from August 1, 2003 to December 31, 2007;
3. the City Clerk notify the Minister of Finance of Council's actions with respect to the recommended exemption and cancellation of taxes for Master's College and Seminary, for the purposes of ensuring that the exemptions and cancellations in respect of school taxes required by the *Master's College and Seminary Act, 2008* are implemented;
4. authority be granted for the introduction of the necessary bill to give effect thereto; and
5. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

### **Implementation Points**

Following Council's enactment of the by-law associated with this report, it will be necessary for Master's College and Seminary to file an application for cancellation, reduction and refund of taxes under Section 323(g) of the *City of Toronto Act, 2006* to cancel the taxes for 2008 and 2009 taxation years. The application deadline for the 2008 tax year was March 2, 2009. As an application by Master's College and Seminary was not made by this deadline, the Treasurer can make an application pursuant to Section 323(4) by April 30, 2009. In anticipation of Council's approval of the recommendations in this report, the treasurer's application will be processed following enactment of the by-law.

For the 2009 taxation year, Master's College and Seminary must file an application with the City Treasurer by March 1, 2010. Revenue Services staff will advise officials of Master's College and Seminary of the deadline for the submission of applications under Section 323 of the *City of Toronto Act, 2006*.

Additionally, prior to implementing the tax cancellation, the City must obtain a written undertaking by Master's College and Seminary to repay the total of all charity tax rebate amounts that have been received by it for the subject premises for the period from August 1, 2003 to December 31, 2007. Bill Pr10 provides for a cancellation of the taxes on the leased premises, but such cancelled tax amounts must be refunded to the property owner, rather than the tenant (i.e. Master's College and Seminary). However, as the amount of cancelled taxes will include charity rebate amounts already paid directly to Master's

College, as the tenant, the charity rebates amounts must be repaid to the City. Master's College should then be able to recover the full cancelled taxes from the property owner through the provisions of their lease.

### Financial Impact

The net effect of providing a property tax exemption on the portion of the property leased and occupied by Master's College and Seminary at 3080 Yonge Street will be a reduction in annual property tax revenue of approximately \$60,043 per year beginning in 2008, representing the municipal portion of taxes that are levied against the premises. The estimate is based on 2008 assessment and tax rates including all capping adjustments.

Final 2009 property taxes have not yet been established. For 2008, as property taxes have already been levied, the exemption for the municipal portion of property taxes of \$60,043 will be funded from the City's Non-Program Tax Deficiency account, as will a similar amount for the 2009 municipal portion of taxes. The education portion of taxes of approximately \$50,723 will be recovered from school board remittances for both 2008 and 2009. Charity tax rebate amounts for the 2008 and 2009 taxation years have not been issued to date, and therefore are not required to be repaid.

Additionally, the property tax cancellation from August 1, 2003 to December 31, 2007 will result in a cancellation of \$469,525 in total taxes, consisting of a municipal portion of \$264,648, which will be funded from the City's Non-Program Tax Deficiency account. The education portion of \$194,853 will be fully recoverable from the school boards/Province, less the total education portion of charity tax rebates that have already been paid during this period. The remaining \$10,024 represents Business Improvement Area (BIA) charges. The cancellation of the BIA charges will not impact the City's revenues, as BIA amounts are collected on behalf of the various Business Improvement Areas to fund their operations. The amounts to be cancelled are summarized in Table 1 below.

Table 1: Amounts of Taxes and BIA Charges to be cancelled for the period August 1, 2003 to December 31, 2007 and made exempt for 2008 and 2009

Year	Total taxes paid (incl. BIA charges)	Share of taxes including BIA Charges to be cancelled or made exempt (premises occupied by Master's College & Seminary)	Amounts to be cancelled or made exempt			Charity Rebate amounts to be recovered (iii)
			Municipal	Education	BIA	
2003 (i)	\$1,196,771	\$42,245	\$27,849	\$13,698	\$698	\$20,408
2004 (ii)	\$1,195,720	\$100,969	\$59,220	\$39,660	\$2,089	-
2005	\$1,181,977	\$99,809	\$57,996	\$39,660	\$2,153	\$47,368
2006	\$1,279,984	\$113,292	\$59,833	\$50,917	\$2,542	\$51,853
2007	\$1,279,049	\$113,210	\$59,751	\$50,917	\$2,541	\$51,530
<b>Total</b>	<b>\$6,133,501</b>	Total Cancellation: <b>\$469,525</b>	<b>\$264,648</b>	<b>\$194,853</b>	<b>\$10,024</b>	<b>\$171,159</b>
2008	\$1,283,208	Exemption: \$113,630	\$60,043	\$50,723	2,863	n/a
2009	not yet determined					n/a

(i) Tax cancellation is from August 1, 2003 to December 31, 2007  
(ii) Master's College and Seminary missed the application deadline for 2004  
(iii) Charity Rebates paid for the 2003-2007 period will be recovered from Master's College & Seminary

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

## **DECISION HISTORY**

At its meeting on April 23 and 24, 2007, City Council adopted a motion to support the Private Member's Bill Pr 28, entitled "An Act Respecting Master's College and Seminary," which would have provided a tax exemption and a retroactive cancellation of taxes for a portion of 2003, and all of 2004 and 2005. The Council decision can be obtained at:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-04-23-cc07-dd.pdf>

The motion can be obtained at:

<http://www.toronto.ca/legdocs/mmis/2007/cc/bgrd/m34.pdf>

Bill Pr28, however, did not receive Royal Assent prior to the end of the legislative session, and therefore did not become a law. A subsequent private member's bill (Pr10) "An Act respecting Master's College and Seminary," was re-introduced in the legislature on October 7, 2008, and became law on December 10, 2008.

A copy of Bill Pr10, "An Act respecting Master's College and Seminary" is attached to this report as Attachment 1.

## **ISSUE BACKGROUND**

Master's College and Seminary was incorporated by special legislation in 1983 under the name Eastern Pentecostal Bible College. It was continued by special legislation in 2001, under the name Master's College and Seminary. The Seminary is a registered charity within the meaning of the *Income Tax Act* (Canada). The *Assessment Act* provides an exemption from taxes for an educational seminary of learning, provided the land is owned, used and occupied by the organization. Prior to August 1, 2003, Master's College and Seminary was located on land owned by the College, and therefore would have qualified for an exemption from taxes.

On August 1, 2003, Master's College & Seminary relocated to leased premises at their current location at 3080 Yonge Street, which is a mixed commercial/office building. The previous tax exemption under the *Assessment Act* no longer applied to the premises, as the land was not owned and occupied by the seminary of learning, but rather leased from a commercial entity that was otherwise taxable. As such, Master's College became taxable at the commercial rate for the premises occupied at 3080 Yonge Street as of August 1, 2003.

A Private Member's Bill Pr28, entitled "an Act Respecting Master's College and Seminary" was introduced in the provincial legislature on June 15, 2006 to amend the *Master's College and Seminary Act* to exempt the seminary from property taxes (municipal and education) beginning January 1, 2006, and to cancel the taxes levied for

the period August 1, 2003 to December 31, 2003, and all of 2004 and 2005. City Council, at its meeting in April 2007, adopted a motion supporting Bill Pr28 and resolved that Council would support the efforts of Master's College and Seminary in seeking private legislation to provide an exemption from property taxes. Bill Pr28, however, did not receive Royal Assent prior to the end of the legislative session, and therefore did not become a law.

Subsequently, in 2008, Master's College and Seminary once again applied to the Province to enact special legislation, through a Private Members Bill, that would provide an exemption from property taxes on the portion of the property it occupies, as a tenant, at 3080 Yonge Street, beginning January 1, 2008 to July 31, 2013 and to cancel the taxes for municipal and school purposes that were payable on the land from August 1, 2003 (the date the property became subject to taxation in the leased premises) to December 31, 2007.

In response to this request, the Province enacted private legislation (Pr10), the *Master's College and Seminary Act, 2008*, which received Royal Assent on December 10, 2008. This legislation amends previous legislation, the *Master's College and Seminary Act, 2001*, by adding a section that allows Council to exempt the seminary from property taxes (municipal and education) beginning January 1, 2008 and continuing to July 31, 2013, but only for so long as:

- a. the specified property is occupied and used solely for the purposes of Master's College and Seminary; and
- b. Master's College and Seminary is a registered charity within the meaning of the *Income Tax Act (Canada)*.

The Act further provides that Council may also pass by-laws cancelling the taxes for municipal purposes, including interest and penalties, on the specified property for the period from August 1, 2003 to December 31, 2007.

## **COMMENTS**

Given Council's prior indication of support for Master's College and Seminary's efforts to obtain private legislation, and with the passage of the *Master's College and Seminary Act, 2008* that now permits such an exemption beginning January 1, 2008 and continuing to July 31, 2013 and the cancellation of taxes for the period August 1, 2003 to December 31, 2007, staff recommend that Council enact the necessary by-law(s) to provide for the exemption/cancellation.

The private legislation is permissive in nature, in that it requires Council to enact a by-law in order to make the tax exemption and tax cancellation effective. If Council does not pass a by-law, the premises will remain subject to taxation.

Staff are recommending that the tax exemption and cancellation be approved by Council, as this will continue the previous tax exemption that applied to Master's College and Seminary as a seminary of learning. Had the College not relocated in 2003 and occupied

taxable premises, the prior exemption established under the *Assessment Act* would have applied throughout the period since August 1, 2003 and continued to the present. As such, staff support an exemption from taxes for this period, and on a go-forward basis for the period permitted in the private legislation.

During the period from August 1, 2003 to the end of 2007, during which the College was taxable, Master's College and Seminary applied for and received rebates of a portion of the taxes for which it was responsible under the City's Property Tax Rebate Program for Registered Charities, as a means of offsetting the taxes payable. A total of \$171,159 in rebates was provided over this period (no rebate was provided for the 2004 taxation year, as Master's College missed the application deadline for that year).

Should Council approve that the taxes be cancelled for this period of time as recommended, the total amount of charity rebates provided by the City over this period will have to be recovered from Master's College and Seminary, as the cancellation will see the total taxes for the leased premises cancelled and refunded to the property owner. The total cancelled taxes, however, will include charity rebate amounts already paid to Master's College, as the tenant. As such, it is recommended that the cancellation of taxes be made provisional on receiving a written undertaking from Master's College and Seminary that the charity rebate amounts previously received will be repaid to the City.

Once the taxes have been cancelled for the portion of the property occupied by Master's College and Seminary, the taxes for the property will be adjusted, with a refund issued to the property owner. Master's College should then be able to recover the full cancelled taxes from the property owner through the provisions of their lease agreement.

## **CONTACT**

Casey Brendon, Acting Director, Revenue Services Division  
Phone: (416) 392-8065, Fax: (416) 696-4230, E-mail: [cbrendo@toronto.ca](mailto:cbrendo@toronto.ca)

## **SIGNATURE**

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Giuliana Carbone  
Acting Treasurer

## **ATTACHMENT**

Attachment 1: Copy of Bill Pr10: *An Act respecting Master's College and Seminary*

# Attachment 1



1ST SESSION, 39TH LEGISLATURE, ONTARIO  
57 ELIZABETH II, 2008

## Bill Pr10

*(Chapter Pr9  
Statutes of Ontario, 2008)*

### **An Act respecting Master's College and Seminary**

**Mr. Delaney**

1st Reading	October 7, 2008
2nd Reading	December 2, 2008
3rd Reading	December 2, 2008
Royal Assent	December 10, 2008

Printed by the Legislative Assembly of Ontario



## An Act respecting Master's College and Seminary

### Preamble

The board of governors of Master's College and Seminary has applied for special legislation to exempt certain land from taxation for municipal and school purposes, other than local improvement rates, while the land is used for the purposes of Master's College and Seminary from January 1, 2008 to July 31, 2013 and to cancel the taxes for municipal and school purposes, other than local improvement rates, that were payable on the land for part of 2003 and for 2004 to 2007. The applicant represents that Master's College and Seminary was incorporated by special legislation in 1983 under the name Eastern Pentecostal Bible College and that it was continued by special legislation in 2001 under the name Master's College and Seminary. The applicant further represents that Master's College and Seminary is a registered charity within the meaning of the *Income Tax Act* (Canada) and that Master's College and Seminary occupies certain land leased by it.

It is appropriate to grant the application.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Master's College and Seminary Act, 2001* is amended by adding the following section:**

#### Tax exemptions and cancellations

##### Municipal tax exemption by-law

**9.1** (1) The council of the City of Toronto may pass by-laws exempting the specified property from taxes for municipal purposes, other than local improvement rates, beginning January 1, 2008 and continuing to July 31, 2013, but only for so long as,

- (a) the specified property is occupied and used solely for the purposes of Master's College and Seminary; and
- (b) Master's College and Seminary is a registered charity within the meaning of the *Income Tax Act* (Canada).

##### Municipal tax cancellation by-law

(2) The council of the City of Toronto may pass by-laws cancelling the taxes for municipal purposes, other than local improvement rates, including interest and penalties, on the specified property for the period from August 1, 2003 to December 31, 2003 and for the years 2004, 2005, 2006 and 2007.

##### School tax exemption

(3) If the council of the City of Toronto passes a by-law under subsection (1), the specified property is also exempt from taxes for school purposes for the period for which the property is exempt from taxes for municipal purposes, other than local improvement rates, under the by-law.

##### School tax cancellation

(4) If the council of the City of Toronto passes a by-law under subsection (2), the taxes for school purposes on the specified property, including interest and penalties, are also cancelled for the period for which the taxes for municipal purposes, other than local improvement rates, are cancelled under the by-law.

##### Chargeback

(5) Sections 301 (adjustments) and 318 (taxes collected on behalf of other bodies) of the *City of Toronto Act, 2006* apply, with necessary modifications, to taxes cancelled under subsections (2) and (4).

##### Definition

(6) In this section,

"specified property" means the lands and premises used and occupied by Master's College and Seminary at 3080 Yonge Street in the City of Toronto, being part of the lands currently assessed as 1904116010059000000.

##### Commencement

**2. This Act comes into force on the day it receives Royal Assent.**

##### Short title

**3. The short title of this Act is the *Master's College and Seminary Act, 2008*.**