

EX16.20 - Attachment 1 – Confidential Information – made public on July 22, 2016

Canada Revenue Agency (CRA) Employer Compliance Audit

Date:	June 10, 2016
To:	Executive Committee
From:	Deputy City Manager & Chief Financial Officer

CONFIDENTIAL RECOMMENDATIONS

The Deputy City Manager & Chief Financial Officer recommends that:

1. City Council authorize the City Manager to establish a program for affected Toronto Paramedic Services and Toronto Fire Services employees (Union and Non-Union employees) on the following terms and conditions, at an estimated total cost of \$5.3 million, which was accrued in the 2015 financial statements:
 - (a) The City to provide payment (either directly to the Canada Revenue Agency or to the Toronto Paramedic Services / Toronto Fire Services employee) for the tax and interest owing for the tax years 2013 to 2015 inclusive arising as a result of the Canada Revenue Agency's decision that parking access at all Toronto Paramedic Services and Toronto Fire Services work locations is a taxable benefit.
 - (b) The City to pay the tax (*i.e.*, the grossed-up amount) for any payments made to or on behalf of Toronto Paramedic Services and Toronto Fire Services employees in accordance with Recommendation 1(a) in order to offset the effect of such payments being recognized as a taxable benefit to Toronto Paramedic Services and Toronto Fire Services employees in the 2016 tax year.
 - (c) The City's Unions must agree to a Memorandum of Agreement providing that unionized employees will reimburse the City if any objections are filed and such objections are successful in reducing or eliminating the taxable benefit for the years 2013 to 2015, inclusive.

- (d) The City to be reimbursed for any amount paid by the City to an affected Toronto Paramedic Services and Toronto Fire Services employee or on an affected Toronto Paramedic Services and Toronto Fire Services employee's behalf, should an objection result in a reduction of the employee's tax obligation for the years 2013 to 2015, inclusive.

Financial Impact

The estimated cost for the City to fund the reimbursement of the tax and interest, grossed-up, from 2013 to December 31, 2015, is as follows:

Toronto Fire Services (TFS)				
Year	# of Employees	Tax Impact	Interest	Total
2013	3203	\$549,000	\$66,000	\$615,000
2014	3175	\$540,000	\$38,000	\$578,000
2015	3228	\$611,000	\$25,000	\$636,000
Grossed Up Tax		\$1,326,000		\$1,326,000
Total Estimate Payable		\$3,026,000	\$129,000	\$3,155,000

Toronto Paramedic Services (TPS)				
Year	# of Employees	Tax Impact	Interest	Total
2013	1321	\$207,000	\$25,000	\$231,000
2014	1430	\$219,000	\$15,000	\$235,000
2015	1498	\$261,000	\$10,000	\$271,000
Grossed Up Tax		\$508,000		\$508,000
Total Estimate Payable		\$1,195,000	\$50,000	\$1,245,000

Total Tax Impact (TFS & TPS)	\$4,400,000
OMERS Impact	\$900,000
Total Tax and OMERS Impact	\$5,300,000

Pension Impact:

As a result of the CRA's decision that parking access at the TPS and TFS work locations is a taxable benefit, the amount of the taxable benefit is considered part of an employee's "contributory earnings" under the OMERS Act. Accordingly, City staff must adjust the TPS and TFS employees' records retroactively, without exception, to amend the contributory earnings for such employees to include the taxable benefit.

This will result in additional employee and employer contributions being required to be remitted to OMERS, retroactively to 2013. The cost to the employer for this retroactive contribution is approximately \$0.9 million. In addition, TPS and TFS employees will be responsible to remit their contributions and the estimated cost of this is approximately \$0.9 million. The cost to an individual employee will be approximately \$63.00 per year. Staff will be communicating to affected TPS and TFS employees their obligation to remit these contributions to the City of Toronto in order to make the necessary adjustments to OMERS.

City Cost:

Pension Contributions, plus Interest (Prime + 1% discount rate)

- 2013 and 2014 -- \$0.6 million
- 2015 -- \$0.3 million Total: Approx. \$0.9 million

Employee Cost:

Pension Contributions

- 2013 and 2014 -- \$0.6 million
- 2105 -- \$0.3 million Total: Approx. \$0.9 million

It should be noted that if any employee objects to the reassessment and is successful in their objection, this total amount may be reduced.

Funds totalling \$4.4 million were accrued in the 2015 financial statements, as the costs relate to wages paid between 2013 and 2015. As a result, the financial impact in 2016 is approximately \$900,000, to be funded from Toronto Paramedic and Toronto Fire operating cost centres to the extent possible, with any additional amounts funded from non-program expenditure budget.

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

CONFIDENTIAL INFORMATION

Overview of the Employee Reimbursement Program

Consistent with the action taken by the City in 2010, staff are recommending that the City fund the tax owing and interest payable by TPS and TFS employees for the 2013 to 2015 tax years inclusive, with a view to off-setting the financial impact of the CRA's decision that parking at the City's TPS and TFS work locations is a taxable benefit. In addition, it is recommended the City pay the tax that would be payable in respect of any payments made to or on behalf of TPS and TFS employees as that payment, in itself, would constitute a taxable benefit (the "gross-up" amount) in the year in which it is received by the TPS and TFS employees.

In this situation the CRA required the City to commit that it will not object to its reassessment and will not support any appeals by TPS and TFS employees. Accordingly, staff recommends that the reimbursement payments be made based on the following criteria:

- i. Each participating TPS and TFS employee must provide to the City a copy of his/her Notice of Reassessment;
- ii. Non-union employees must sign a letter of agreement that they will reimburse the City should they individually object to the reassessment and such objections are successful in reducing or eliminating the taxable benefit for the years 2013 to 2015, inclusive;
- iii. The City's Unions must agree to a Memorandum of Agreement providing that unionized employees will reimburse the City if any objections are filed and such objections successfully reducing or eliminating the taxable benefit for the years 2013 to 2015, inclusive;
- iv. To the extent that any objections are successful, the employee will reimburse the City; and
- v. To the extent that any objections are unsuccessful, no further action will be required.

PPEB staff will develop and implement a program with the appropriate controls and oversight to ensure that the above criteria and principles are met. Staff intend to consult with the CRA to determine the most efficient manner in which the TPS and TFS employees' taxes may be remitted.

It is recommended that the City provide TPS and TFS employees until September 30, 2016, to provide PPEB with the required documentation to qualify for the program with regard to the additional tax and interest owing for the 2013, 2014 and 2015 tax years. If TPS and TFS employees do not meet this deadline, they will be individually responsible for paying the tax and interest owing directly to the CRA.