



INFORMATION REPORT

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: April 17, 2013	
SUBJECT/REPORT NO: Hamilton Waterfront Trust Update - GST Audit and Operating Losses (FCS12092(a)) (City Wide)	
SUBMITTED BY: Mike Zegarac Acting General Manager Finance & Corporate Services	PREPARED BY: Brian McMullen (905) 546-2424 ext. 4467
SIGNATURE:	

Council Direction:

Council at its meeting of December 12, 2012 approved item 8.5 of General Issues Committee Report 12-035 respecting Report FCS12092 Hamilton Waterfront Trust Update – GST Audit and Operating Losses.

Staff have been requested to provide additional information on the GST Audit once it is available from staff of the Hamilton Waterfront Trust (HWT).

Information:

Staff received HWT’s report on the GST Audit 2006/2007 that was approved by HWT’s Board at its meeting in February 2013. The report provided information on HWT’s GST Audit of 2006 and 2007 following their meeting with Canada Revenue Agency.

Further, Hamilton Waterfront Trust Board, at its meeting of March 12, 2013, approved a motion to ask the Acting General Manager, Finance and Corporate Services to share the approved report written by HWT staff in February 2013 with City Council via a Standing Committee Information Report in April 2013.

Appendix “A” to Report FCS12092(a) provides the Motion from the HWT Board and the report approved by the HWT Board in February 2013.



**HWT BOARD OF TRUSTEES
MINUTES**

4:30 P.M.
Tuesday, March 12, 2013
HWT Boardroom, 47 Discovery Drive, Hamilton

Motion: T. Jackson

Whereas the HWT approved and adopted the Pulcins/Plessl GST report in February 2013; and,

Whereas the HWT forwarded that information to Acting GM, M. Zegarac and Finance Department for information; and,

Whereas the November 2012 Rossini Report on the HWT's GST issue, that went to GIC in December 2012, which had some C.R.A. information that was unavailable and pending;

Therefore, be it resolved that the HWT Board ask the Acting GM of Finance to share the Pulcins/Plessl approved February 2013 report with City Council via a Standing Committee Information Report in April 2013.

CARRIED UNANIMOUSLY



Information Report

To: Board of Trustees

Date: February 11, 2013

From: W. Plessl, Executive Director
A. Pulcins, HWT Accountant

File No: 6040

Re: **GST Audit 2006/2007**

Background

Since its inception, the Hamilton Waterfront Trust has been filing quarterly GST returns to Canada Revenue Agency (CRA). In 2008, HWT staff in its review of tax guidelines felt that there may be additional rebates which were not taken into account when GST returns were filed for the years 2006 and 2007.

Therefore the HWT refiled GST returns for the years 2006 and 2007. The total amount of refunds sought were \$495,000 which after processing by CRA was refunded to the HWT.

Months later CRA in its regular review of accounts decided to undertake an audit of the GST filings by the HWT for 2006 and 2007. Initial findings determined that the HWT was not entitled to the full amount of the re-filed returns and CRA was considering claiming back \$428,845 of the amended returns filed.

A summary of how the \$428,945 was arrived at is as follows:

1. GST collected and not Remitted - \$49,327.06. This deals with amounts invoiced to the City where no tax should have been charged. As HWT is a charity only 60% of GST collected is to be remitted, however in this case the tax should never have been charged so the HWT is not entitled to the remaining 40%.
2. GST collectable for exempt Revenues - refund \$28,215.34. This appears to be a result of the accountant doing a global calculation on all revenues and remitting GST on all revenues earned even though GST was not applicable on such items as interest earned, donations.
3. GST collected on a tax inclusive basis - refund - \$17,974.01. The accountant calculated GST collectable on revenues and included the GST in the calculated amount to be remitted.
4. ITC's and Rebates claimed twice - \$154,825.90. Amounts were claimed twice on different worksheets.
5. ITC and Rebates claimed where no GST had been paid - \$70,061.33. Rebates were claimed for items that did not have GST applicable. If GST was not paid, no rebate is allowed. The accountant claimed that GST had been paid on items such as wages, bank charges, property

taxes, insurance, basic groceries. It appears the accountant was using global calculations and claiming back GST on all expenditures, both taxable and exempt.

6. ITC's Claimed for Exempt Activities – denied and assessed - \$ 71,478.18. This related to certain construction projects where ITC's were claimed but are not allowed and were denied. This appears to mostly deal with the City of Hamilton. City staff has informed us that no GST was recorded on these construction projects.
7. Rebate Claims Denied for Credit Entries - \$166,197.38. It appears that the accountant had claimed GST collected as rebates when these funds should have been remitted.
8. Additional Rebate Claims Allowed - Refund \$36,755.18. Through the course of the audit, CRA found some rebates that had not been claimed and allowed these amounts.

After many meetings between HWT and CRA staffs including various interpretations by CRA regarding GST and how it applies to the HWT operation, CRA and the HWT agreed to a reassessment totaling \$323,126, as per letter date January 6, 2011.

Due to the fact that CRA reduced the assessment, it was agreed to that all adjustments were fair and reasonable and therefore no Notice of Objection would be filed.

As well CRA supported the Hamilton Waterfront Trust in applying to the Fairness Committee for relief of penalties and interest and it is my understanding that these were waived.

The \$323,126 owing to the Federal Government was paid in installments starting in January 2011 with the last payment made in July, 2012.

Summary

The HWT refilled GST returns for 2006 & 2007 in the amount of \$495,000.

CRA performed an audit on HWT's GST filings for 2006 & 2007 and made a reassessed with the HWT owing \$428,945.

After lengthy discussion and negotiations, CRA reduced the assessment to \$323,126.

The HWT agreed to the revised amount and paid these funds to CRA over a period of 18 months with the last payment on June, 2012.

As a result of the refiling and subsequent audit, the HWT netted a gain of \$171,874.00.

Post Audit

The assessment has been paid in full as noted above.

In my opinion adequate records are now being kept, returns are being filed in accordance with required laws and regulations.

The HWT had a large rebate claim filed for the period ended June 30, 2012 and before payment was processed; CRA conducted a review of the return. Sales documents, the General Ledger for HST collected and HST for capital were sent along with supporting documentation requested by CRA. After the review the return was processed and the refund was received.