SUBJECT: Audit Report 2008-09 - Tax Appeals and Refunds (CM08028) (City Wide)

RECOMMENDATION:

(a) That Report CM08028 respecting Audit Report 2008-09, Tax Appeals and Refunds, be received; and

(b) That the management action plans as detailed in Appendix “A” of Report CM08028 be approved and the Acting General Manager of Finance and Corporate Services direct the appropriate staff to have the plans implemented.

Ann Pekaruk
Director, Audit Services
City Manager's Office

EXECUTIVE SUMMARY:

This audit was included in the “B” list of the Council approved 2008 Internal Audit work plan. As such, the work would be undertaken as resources allowed.

Section 357 and 358 appeals under the Municipal Act and related processes and controls were reviewed as well as tax refund procedures.

The results of the audit are presented in a formal audit report containing observations, recommendations and management responses attached as Appendix “A” of Report CM08028.
BACKGROUND:

Through a legislated process of the Municipal Act, the City and the Municipal Property Assessment Corporation (MPAC) can rectify assessment classification changes and errors without engaging in formal assessment reviews. Taxpayers can submit an application under Sections 357 and 358 of the Act. A successful reassessment and/or tax appeal results in the recalculation of the property tax liability. The City has an obligation to refund overpayments in the form of credits to the taxpayer’s property tax owing or a cash refund, as appropriate.

In 2007, there were 496 Section 357 and 144 Section 358 applications. To August, 2008, 307 Section 357 and 60 Section 358 applications had been made.

Successful applications processed by MPAC and approved by Council resulted in tax write-offs of $1.57 million in 2007 and $1.34 million year to date as of August, 2008.

The audit fieldwork was completed in September, 2008. The results of this audit are attached as Appendix “A” of Report CM08028.

The Audit and Administration Committee receives and approves final audit and review reports as part of its responsibilities for the oversight of governance and control.

ANALYSIS/RATIONALE:

The review included only applications initiated by the taxpayer through the City. However, even then, there are limitations with respect to the processing of applications in that the City is reliant on the decisions of MPAC in individual circumstances. Applications under each section of the Act (357 and 358) carry specific rules regarding timing of the applications, allowable reasons for the appeals and the necessary steps required of the municipality upon notice of successful applications. A review of compliance with such regulations as well as the effectiveness and strength of controls around the City processes resulted in positive findings. Operationally, such tax appeals and resulting refunds are handled well with adequate controls and approval routines in place.

The two resulting recommendations deal with items of an administrative nature whose implementation are required to address specific risks. The recommendations are:

- The adequate documentation and updating of divisional procedures for processing Section 357 and 358 appeals and their results. Implementation of this recommendation would provide a means of consistent application and provide appropriate material for efficient transition should there be personnel changes in the area.
- Management monitoring of the Vailtech system access rights to ensure appropriate levels for designated staff as well as to update such rights for personnel changes. Failure to control and monitor access to a system that is key to the property taxation processes may result in unauthorized or inappropriate use.

Staff agree with the recommendations and have or will address them in the near future.

ALTERNATIVES FOR CONSIDERATION:

Not applicable.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial
None.

Staffing
None.

Legal
None.

POLICIES AFFECTING PROPOSAL:

Municipal Act – Sections 357 and 358

RELEVANT CONSULTATION:

The attached report included management action plans which reflect the responses of management and staff responsible for the tax appeals and refund processes as described above (Taxation Division of the Corporate Services Department).

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. □ Yes ☑ No

Environmental Well-Being is enhanced. □ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes □ No

City Council’s strategic commitment to “Best Practices – Best Value” under “A City That Spends Wisely and Invests Strategically” is addressed through audits and reviews and their subsequent follow up to ensure controls are in place to protect the assets of the City and promote efficient, effective and economic services and programs.

Does the option you are recommending create value across all three bottom lines? □ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? □ Yes ☑ No

ap:dt
Attachment – Appendix “A”
CITY OF HAMILTON
INTERNAL AUDIT REPORT 2008-09
TAXATION – TAX APPEALS AND REFUNDS

<table>
<thead>
<tr>
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<th>OBSERVATIONS OF EXISTING SYSTEM</th>
<th>RECOMMENDATION FOR STRENGTHENING SYSTEM</th>
<th>MANAGEMENT ACTION PLAN</th>
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</table>
| 1 | **Procedures Manual**

Although there is a listing of the steps to be followed for section 357 and 358 (of the *Municipal Act*) tax appeals, most of the individual steps are not detailed adequately to provide appropriate guidance.

When there are no adequately detailed written procedures to refer to, the employee currently carrying out the process relies on personal understanding and experience which could result in incorrect or inconsistent application. It may also be problematic and inefficient for the successor to commence his/her duties within a short period of time.

That the divisional procedures for processing section 357 and 358 appeals be adequately documented. These procedures, once written, should be reviewed regularly to ensure that they remain current. Any revisions should be clearly identified by date of implementation.

Agreed. Target date for completion of written procedures is the 3rd quarter of 2009.

| 2 | **Access to Tax System**

The City uses a comprehensive tax system (Vailtech) to process payments, appeals and all other transactions related to properties listed on the tax roll. Access to the system is limited to users authorized by the Director of Taxation. At the time of the audit (September 2008), there were fifty (50) unique user logins identified by the administrator of the system.

A review of the listing identified a former employee still had an active user ID, another employee that retained system access from a previous position held (current duties did not require a unique user ID) and a current divisional employee who uses a generic ID shared by several other employees.

Failure to control and monitor access to the system may result in unauthorized or inappropriate use.

That the Director of Taxation review the listing of access rights to the system on a regular basis to ensure that the list is current and up to date with appropriate adjustments made in a timely manner.

Agreed. This recommendation will be implemented immediately.