



Rethink your relationship with tires

April 2019

OTS Wind Up Plan Context

- Minister's Wind-up Directions:
 - February 17, 2017;
 - June 29, 2017.
- Stakeholder feedback
- Resource Productivity Recovery Authority (RPR) Industry Funding Organization (IFO) Wind-up Guide;
- Key Timelines:
 - OTS submitted the Wind Up Plan (WUP) to RPR November 30th, 2017;
 - RPR, following consultation, approved the WUP on March 22nd, 2018;
 - Approval included the condition that the PLT Fee Elimination directed by the Minister begin October 1st 2018
 - Used Tire program ceased operations December 31, 2018 (as per Minister's direction Feb 17, 2017);

Ministerial Directions

February Letter: Plan should be consistent with following principles:

- No disruption in the operation of the waste diversion program during wind up;
- Current program targets must be maintained until program ceases operations;
- Affected stakeholders must have opportunities for meaningful engagement;
- Plan shall not result in unfair or preferential treatment of the public or affected stakeholders.

June Letter:

- Interests of current and future tire consumers should be considered in options dealing with program surpluses and deficits;
- Where possible, rules should eliminate fees for PLT tires to minimize surplus funds - by May 1, 2018 or as soon as feasible.

OTS Surplus Funds

At time of approval of the Wind-Up Plan OTS forecast an approximate \$9.7 million in surplus funds that could be drawn down to fund the PLT fee elimination

Table 1.4.7 Impact of Revenue/Expense Forecast on OTS Reserves	
	Estimate (\$000s)
Net Assets as of December 31, 2016	\$49,155
2017 Operating Surplus/(Deficit)	(\$11,816)
2018 Operating Surplus/(Deficit)	(\$8,663)
Net Asset Estimate as of December 31, 2018	\$28,706
Estimate of 2019 Wind Up Expenses	(\$19,039)
Initial Estimate of Unrestricted Net Assets after Resolution of OTS Wind Up Obligations*	\$9,667

OTS Surplus Funds

Challenges to IFO Eligibility for ITCs have materially affected the OTS WUP Forecast:

- March 2018 Ruling obtained by CRA reversed 2013 Ruling – determined that SO was eligible to claim ITCs;
- CRA issued a letter to OTS in October 2018 clarifying the the Ruling on SO's eligibility for ITC's did apply to OTS;
- OTS had filed an ITC claim for the September 2009- December 2013 period but had been rejected by CRA, OTS appealed but until the SO Ruling there had been no indication that a positive outcome was likely;
- OTS has filed subsequent ITC claims for the January 2014- December 2016, January 2017 – October 2018 periods;
 - OTS began collection HST from Stewards in the August 2018 TSF Remittance period

OTS Surplus Funds

Challenges to IFO Eligibility for ITCs have materially affected the OTS WUP Forecast:

- OTS had been maintaining an accrual relating to HST potentially payable on Transportation Incentive payments made October 2014 – October 2018
 - Based on favorable guidance from CRA re: the tax treatment of these incentives this accrual has been reversed

OTS Surplus Funds

OTS current WUP Forecast estimates surplus funds at between (approximately) \$25.8 and \$38 million.

Main surplus driver are ITC rebates

ITC Claim Period	Amount	Status
September 2009 – December 2013	\$17,513,155.38	Received
January 2014 – December 2016	\$8,021,806	Not Received
January 2017 – October 2018	\$4,108,979.20	Received
HST-related Accrual for HST on TI Paid October 2014 – October 2018	\$11,601,174.44	Reversed

2018 AFS does not include incremental approximate \$1,057,000 for September 2009 – December 2013

2019 Forecast Wind Up Expenses – Breakdown

\$ In Thousands

Account Description	WUP	R8 Estimate
Employee Severance/Retention Estimate	\$2,100	\$216
General & Administration Expenses – June YTD Estimate for WUP & Sept YTD for R7/R8	2,624	2,982
TreadMarks Amortization Expense	-	699
RPRA Costs	600	750
Contractual Commitments – Property Lease & Cisco phone lines in WUP, Only Cisco in R7, Cisco and Rogers Data in R8	131	83
Incentives- Includes HST on CA & TI for WUP/R6 and HST excluded in R7	9,040	12,677
One-time Wind Up Expense	1,500	1,500
Contingency – Incentives & Steward Non- Compliance	3,044	-
Total Wind Up Expenses	\$19,039	\$18,907

Forecast Scenarios

- Assumes Current Surplus as of December 31, 2018

\$ In Thousands	PLT Low	PLT High	Off-Road Low	Off-Road High	Total Low	Total High
Surplus – 12/31/18 Estimate	\$24,396.4	\$24,396.4	\$5,537.8	\$5,537.8	\$29,934.2	\$29,934.2
ITC Adjustments	(3,348.8)	\$6,537.8	(760.2)	1,484.0	(4,109.0)	8,021.8
OTR Deficit	1,194.8	1,194.8	(1,194.8)	(1,194.8)	-	-
Surplus – 04/2019 Estimate	\$22,242.4	\$32,129	\$3,582.8	\$4,343	\$25,825.2	\$37,956
Contingency	(2,445.0)	(2,445.0)	(555.0)	(555.0)	(3,000.0)	(3,000.0)
Tire Category Surplus	\$19,797.4	\$29,684.0	\$3,027.8	\$5,272.0	\$22,825.2	\$34,956.0

As a result of uncertainty regarding ITCs Forecast Surplus funds range from \$22.8 million to \$35 million.

OTS Wind Up Plan

The Minister has issued new Wind-up Directions to OTS on April 2nd , 2019

Direction re: OTS Surplus Funds

- Must be returned to “Consumers”
 - Ministry has clarified that “Consumers” includes commercial and OTR tire consumers
- Plan to be submitted to RPRA for approval by May 31, 2019
 - OTS to consult on the plan
- Program to return surplus funds to consumers “...to begin in early summer 2019.”
- Amount to be returned to consumers “...should align with the amounts that OTS previously charged ..., approximately \$4.00 per passenger tire.”
- OTS should ensure sufficient funds remain for contingencies and final wind-up
 - Amendment to specify what should happen to any remaining surplus funds after conclusion of program to return funds to consumers and OTS wind-up

OTS Surplus Funds

Options considered to return to consumers:

1. Rebate surplus funds to Stewards with contractual obligation they reduce tire prices to their customers by fixed per-tire amount;
2. Consumer application process for rebate based on submission of evidence they purchased a tire during Sept 2009 – September / December 2019 (depending on tire type);
3. POS mail-in rebates for tire purchases as of “Rebate program” effective date;
4. POS instant rebate for purchases as of “Rebate program” effective date;
5. Subsidy to vehicle registrations through OMVIC as of “Rebate program” effective date;
6. Offer a “bounty” to consumers on “return” of used tires

OTS Surplus Funds

Options to return to consumers:

- 1. Rebate surplus funds to Stewards with contractual obligation they reduce tire prices to their customers by fixed per-tire amount;**

PROS

- Quick to implement
- Somewhat aligned with current WUP

Cons

- No guarantee reduction would trickle down to consumer
- Requires uptake by Stewards

OTS Surplus Funds

Options to return to consumers:

- 2. Consumer application process for rebate based on submission of evidence they purchased a tire during Sept 2009 – September / December 2019 (depending on tire type);**

PROs

- Provides direct rebate to consumer
- Does not require Steward / retailer participation
- Similar to some existing processes for compensating consumers (e.g. Weston bread price-fixing rebates)

Cons

- Likely limited uptake by Consumers
- Timeline to meet rebate \$\$ targets uncertain
- Requirement to provide tire purchase documentation may effectively bar consumers who purchased more than 1year ago

OTS Surplus Funds

Options to return to consumers:

3. POS mail-in rebates for tire purchases as of “Rebate program” effective date;

PROS

- Administratively simple
- Rebate direct to consumer
- Can be clearly linked to tire purchase with receipt submission

Cons

- Likely low uptake
- Difficult to control amount of rebate actually paid out in aggregate
- Not popular with consumers

OTS Surplus Funds

Options to return to consumers:

4. POS instant rebate for purchases as of “Rebate program” effective date;

PROs

- Easy for the consumer
- Rebate direct to the consumer on tire purchase

Cons

- Administratively complex across many retailers
- Requires retailer participation
- Control of aggregate rebate amount is imprecise
- Longer lead time to establish

OTS Surplus Funds

Options to return to consumers:

5. Subsidy to vehicle registrations through OMVIC as of “Rebate program” effective date;

PROs

- Rebate direct to consumer
- Good control / visibility on forecast rebate budget based on OMVIC vehicle registrations
- Administratively simple for OTS

CONs

- Unknown level of interest from OMVIC or timing to implement
- Uncertainty regarding applicability to OTR tires
- Vehicle registration is not directly related to a tire purchase

OTS Surplus Funds

Options to return to consumers:

6. Bounty to Consumers on return of used tires;

PROs

- Rebate direct to consumer
- Encourages collection of used tires over steady state

CONs

- OTS relationships with Collectors have been severed complicating implementation of such an approach
- Challenging to validate reported used tire quantities
- May encourage importation of non-Ontario tires in border areas

OTS Surplus Funds

Options Raised in Consultation:

- **Gather Customer-specific sales data from Retailers and process rebates directly to consumer based on historic sales;**

PROs

- Rebate direct to consumer
- OTS could work backwards in time paying rebates to consumers with good control over rebate distribution and budget

CONs

- Potential privacy issues with utilizing customer data in this manner
- Certain retailers may be less able to provide data
- Potentially costly program mailing rebates direct to consumers

OTS Surplus Funds

Options Raised in Consultation:

- **Rebate Funds to PROs based on Members' proportional share of the surplus funds under Agreement that the PRO eliminate charges to Producers for a set period;**

PROs

- OTS can readily allocate funds by Steward/Producer
- Under the Used Tires Reg this "fee elimination" by the PRO will create an obligation for transmission of the elimination to the retail transaction (further discussion with RPRA needed on their compliance and enforcement role)

CONs

- Disruptive to PROs and Producers under the Tires Reg
- Retailers may need additional investment in IT systems to accommodate this option
- Impacts RPRA compliance function and compliance costs under RRCEA
- OTS would need to develop and implement a commercial agreement with PROs to monitor the fee elimination by the PRO
- PROs would need to voluntarily engage with OTS and would be required to disclose sensitive commercial information relating to the competitive marketplace
- For Stewards outside of a PRO could the same condition be enforced?
- Tire Inventory fee impacts would have to be considered

OTS Surplus Funds

Option Review

1. Rebate surplus funds to Stewards	May not result in outcomes that are consistent with Minister's direction as many Stewards are likely unable to guarantee any rebate would flow down to retail level.
2. Consumer application process for rebate	Likely low uptake by consumers due to need to provide support and relatively low value of rebate.
3. POS mail-in rebates for tire purchases	Likely low uptake by consumers due to need to provide support and relatively low value of rebate.
4. Instant rebate at POS	Retailers may be resistant to participation based on perceived administrative effort, cash flow impacts
5. Subsidy to vehicle registrations through OMVIC as of "Rebate program" effective date	Implementation challenges associated with this option make it unfeasible to proceed.
6. Offer a "bounty" to consumers on "return" of used tires	Administratively difficult to manage, could encourage fraudulent claims being filed and would potentially create an additional liability for Producers / PROs under the RRCEA

OTS Surplus Funds – Initial Target Option

4. POS instant rebate for purchases as of “Rebate program” effective date

“Draft” Program Elements

- August 1st 2019 start
- \$4 per PLT tire scannable “coupons” to be distributed to tire dealers, mass merchants, vehicle dealers as well as available on-line for download
- Retailer scans coupon to discount new tire price (or new vehicle price if new tires are on a vehicle, 1 coupon per tire) by \$4 per tire
- Retailer submits sales report and scanned coupons to “clearinghouse” identified by OTS for reimbursement
- Program targeted to run until January 31st 2020 (new tires sold up to this date)
 - Based on OTS data approximately 4.5 million PLT Tires are sold in this period (based on historic collection volumes)

OTS Surplus Funds – Revised Target Option

Hybrid POS instant rebate for purchases as of “Rebate program” effective date at participating retailers and a “Mail-in” option for consumers purchasing at non-participating locations

“Draft” Program Elements

- \$4 per PLT tire “coupons” to be distributed to tire dealers, mass merchants, vehicle dealers as well as available on-line for download
- Retailer provides instant rebate to consumer on purchase of new tire; or
- Consumer uploads proof of purchase of tire to website established by OTS and receives rebate by Pay Pal
- Program targeted to run until January 31st 2020 (new tires sold up to this date)
 - Based on OTS data approximately 4.5 million PLT Tires are sold in this period (based on historic collection volumes) – **NEED TO BETTER VALIDATE SALES**

OTS Surplus Funds – Revised Target Option

Hybrid POS instant rebate for purchases as of “Rebate program” effective date at participating retailers and a “Mail-in” option for consumers purchasing at non-participating locations

- Estimate minimum 2 (but likely more like 3) month timeline to implement following RPRA approval (so September 1st at the earliest?)
- Estimated cost to deliver rebate program (Retailer engagement, POS materials, P&E, redemption services) approximately **\$2-\$2.5 million**
- Establishment of “Mail-In” option may dissuade retailers from participating in the “Instant Rebate” program
- Redemption rate uncertain, “100%” at “Instant Rebate” participating retailers, maybe 10% of remaining sales?

OTS Surplus Funds

Challenges to Delivery of Rebate program:

- Current amount of money available for rebates uncertain due to risk to ITC rebates
- Timelines for delivery of program a significant constraint in certain scenarios
- Participation by retailers in either “instant” or “mail-in” programs uncertain
- Redemption rate uncertain, how many of the approximate 4.5 million PLT tires sold (estimated) will have the rebate applied?
- Potential risk of exceeding rebate budget
- Program Wind-up means OTS relationship with Retailers significantly diminished

OTS Surplus Funds

Redemption challenge for Rebate budgeting

	Forecast #1	Forecast #2	Forecast #3
PLT Surplus Funds at 08/01/19	\$23,146,200	\$29,684,000	\$19,797,400
PLT Rebate Value at 60% redemption	\$10,800,000	\$10,800,000	\$10,800,000
Surplus Funds at 01/31/20	\$12,346,200	\$18,884,000	\$8,997,400

Each 10% increment of redemption is “worth” approximately \$2 million (so assuming 5 million PLTs sold and a 50-50 split total rebate amount = \$11 million)

OTS Surplus Funds

Challenges to Delivery of Rebate program **OTR tires**:

- Solution for OTR tires is less clear
 - POS Rebate? If so what amounts?
 - Direct to business rebate – Could retailers report monthly sales of OTR tires into OTS by customer and OTS process a rebate to them?
- A combination of approaches may be needed to deliver a OTR tire rebate approach:
 - Rebate at POS for Ag tires on equipment or sold as a replacement
 - Rebate application for tires purchased during the program by businesses using OTR tires (Mining, construction, forestry, logistics/material handling....)

OTS Surplus Funds – Revised Target Option

OTR Tires

- POS program likely suitable for Ag tires
- Majority of other OTRs may be “capturable” through data gathering on historic (e.g. 2018) sales partnering with major OTR tire retailers
 - B-to-B data not impacted by same privacy issues
 - Markets more concentrated

Alternatively:

One group of Stewards has suggested directing funds to a bursary for Ontario students taking heavy machinery maintenance training at Ontario colleges.

Tax Update

- OTS received a call from the CRA on April 30, 2019
 - The CRA advised that based on the Stewardship Ontario March 21, 2018 Judgment, the CRA is now taking the position that OTS should have been collecting and remitting tax on the Tire Stewardship Fee (TSF) as OTS is considered a commercial business.
 - This is inconsistent with the previous Ruling that the Stewardship Fees were not consideration for a “taxable supply” and therefore did not attract GST/HST.
 - The CRA acknowledged that based on the circumstances, no penalties would be incurred.

Tax Update

- OTS received a call from the CRA on April 30, 2019
 - CRA will be issuing a letter to OTS requesting Steward monthly revenue data for the last 4 years starting in May 2015 in addition to other information.
 - 30 day response deadline however the CRA is prepared to consider an extension if required.
 - The preliminary estimated potential tax obligation for the last 4 years is approximately \$27 million.
 - OTS will be firming up the estimate based on the CRA's request.
 - OTS management will assess next steps with the Administrator and Tax Counsel once we receive the CRA letter.
 - Should this interpretation from the CRA stand this will materially affect the projected amount of surplus funds (see following table) and the evaluation of options for managing these.

Total Unrestricted Net Assets

Reserves \$ In Thousands	R8 Estimate
Unrestricted Net Assets – 12/31/18	\$29,934
Estimated Tax on TSF <ul style="list-style-type: none">• May 2015 to December 2018	(27,000)
Input Tax Credit Refund <ul style="list-style-type: none">• January 2014 to December 2016• Assuming 100% validation	8,022
Revised Estimated Unrestricted Net Assets	\$10,956

The Revised Unrestricted Net Assets (i.e. "the surplus funds") are estimated at approximately \$11 million assuming OTS pays the Tax on the TSF and receives an ITC Refund for the 2014 to 2016 period.

Total Unrestricted Net Assets

Reserves \$ In Thousands	R8 Estimate
Unrestricted Net Assets – 12/31/18	\$29,934
Estimated Tax on TSF <ul style="list-style-type: none">• May 2015 to December 2018	(27,000)
Input Tax Credit Refund <ul style="list-style-type: none">• January 2014 to December 2016• Assuming 100% validation	4,000
Other Tax-related liabilities	3,300
Revised Estimated Unrestricted Net Assets	\$3,634

The \$8.022 million ITC claims related to the January 2014 – December 2016 period may be prorated based on the audit period indicated by the CRA (approximately 50%, so ITC rebate would be approximately \$4 million). Additionally other potential tax-related liabilities (e.g. interest) may reduce net assets by another \$3.3 million.

OTS Surplus Funds – Target Option

POS instant rebate for purchases as of “Rebate program” effective date

	Low Estimate	High Estimate
Surplus Funds no HST payment	\$25,825,200	\$37,956,000
Surplus Funds assuming HST payment	\$3,634,000	\$10,956,000

Clarity from CRA unlikely to be received in advance of the May 31st deadline for submitting the WUP amendment as directed by the Minister.

OTS Residual Funds Remaining

Options to dealing with Surplus Funds remaining at January 31 2020:

1. Extend consumer rebate programs for additional months depending on amount remaining
2. Rebate to Stewards according to the methodology that is included in the approved WUP
3. Transfer remaining funds to the Authority to offset registry and compliance expenses for tires under the RRCEA
 - Reducing / eliminating RRCEA fees for tire Producers for one or more years;
 - Pay off debt associated with the portion of the Registry capital cost associated with tires.

OTS Residual Funds Remaining

Approach to dealing with Surplus Funds remaining at January 31 2020:

Option for discussion

- 50% of remaining Surplus Funds at January 31 2020 be rebated to Stewards, with the other 50% going to RPRA to offset tire expenses under the RRCEA

Suggestion from one stakeholder that any transfer to RPRA should be limited to 1-years worth of Tire oversight fees.

OTS Surplus Funds

Next Timelines

- Concluded Phase 1 Consultations (one on one meetings) by April 26th
 - Feedback requested by May 2nd
- Phase 2 Consultation to be scheduled the week of May 6th (webinar and possible in-person session(s))
 - Feedback requested by May 14th



Questions?