



The Town of Niagara-On-The-Lake

Telephone (905) 468-3266
Facsimile (905) 468-2959

1593 Four Mile Creek Road
P.O. Box 100
Virgil, Ontario
L0S 1T0

Report:	CS-18-002	Committee Date:	January 22, 2018
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Due in Council:	February 12, 2018
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Report To:	Corporate Services Advisory Committee
Subject:	Municipal Accommodation Tax (MAT)

1. RECOMMENDATION

It is respectfully recommended:

- 1.1 That the Council of The Corporation of the Town of Niagara-on-the-Lake commit, in principle, to implement a Municipal Accommodation Tax (MAT) of 4% to be applied to all transient accommodations; and
- 1.2 That Staff be directed to engage with the industry stakeholders and report to Council on the implementation and administration of a Municipal Accommodation Tax (MAT) within the Town of Niagara-on-the-Lake.

2. PURPOSE / PROPOSAL

The purpose of this report is to affirm Council's commitment to implement a Municipal Accommodation Tax (MAT) in order for staff to provide further options for the implementation and administration of such a tax.

3. BACKGROUND

On November 13, 2017 staff provided Report FC-17-012 (Appendix I) to Council regarding information surrounding Bill 127 - A Stronger, Healthier Ontario which received Royal Assent on May 17, 2017.

On November 23, 2017, the Province of Ontario issued the Transient Accommodation Regulation 435/17, which came into force December 1, 2017 and provides the necessary provisions for municipalities across Ontario to implement a MAT (MAT).

On November 30, 2017 Staff provided an Information Report (Appendix IV) outlining the timeline and process for a report and public consultation on the topic of a MAT. The public has been invited to attend and provide comments on the staff report at the January 22, 2018 Committee of the Whole Meeting. The public will be provided a maximum of 5 minutes to provide comments to the Committee.

The 2017 Ontario Budget, A Stronger, Healthier Ontario, granted authority to Ontario municipalities to impose a mandatory MAT, which would apply to hotels, motels, bed & breakfasts, participants operating a common platform for individual accommodators, and all other accommodators renting rooms for a period of under 28 days.

4. DISCUSSION / ANALYSIS

The regulation allows municipalities to implement a mandatory MAT for transient accommodations through a bylaw and set the tax rate associated with the MAT. In addition, the regulation allows the municipality to enter into agreements with entities to collect the tax, acting as agents for the municipality, and prescribes a revenue sharing disposition formula where proceeds are shared with the eligible local tourism entity.

In many communities, the MAT will look to replace current programs such as the Destination Marketing Fees (DMF) which have been collected through Destination Marketing Programs (DMPs) in many communities across Ontario, for example Ottawa, Toronto, Burlington, Mississauga and Niagara Falls. These industry-led initiatives have existed successfully and have been recognized by many accommodation and tourism operators as an effective means of supporting regional tourism marketing development. Majority of Municipalities that have an existing DMF and DMP have identified that they intend on implementing this tax to replace the existing DMF or DMP programs.

The legislation also recognizes and provide for those municipalities where no such structure or program currently exists. Since the regulation took effect on December 1st, there does not appear to be any municipalities who have not had a DMF or a DMP indicating that they will commit to implementing this tax. However, the Town of Huntsville approved a report at their General Committee recommending the Council confirms its desire to implement a MAT within the Town (Resolution attached as Appendix II), which will be forwarded to Council for ratification in the end of January.

All municipalities that adopt the MAT and that have an existing Destination Marketing Fee (DMF) program in place would be required to share their MAT revenue with the appropriate not-for-profit tourism organization in an amount that matches the total revenue generated by the existing DMF program. For local municipalities where such a program does not exist, at least 50% of the MAT revenue would be shared with the respective eligible tourism entity.

Therefore, should Council adopt a MAT, at least 50% of the proceeds after administration costs would be shared with an eligible tourism entity. The regulations define an eligible tourism entity as "a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality". Currently the Town has a Fee for Service Agreement (Appendix III) with the Niagara-on-the-Lake Chamber of Commerce which indicates that the Chamber, on behalf of the Town, shall provide services including but not limited to visitor services, tourism marketing and promotion programs. Additionally, the Chamber has acted as a Destination Marketing Organization (DMO) for the Town and previously has administered destination marketing programs for the Niagara-on-the-Lake tourism promotion.

As there is currently no DMF collected within the Town, implementation of this tax would result in the establishment of a new program which requires the careful consideration and development of an enabling by-law and administrative model. At a minimum, it would appear that the by-law and administrative system would need to address the following considerations:

- Identification of accommodation providers to be taxed;
- the method and frequency by which the municipality or agent collects the tax; and
- enforcement of the by-law
- exemptions from the tax
- rebates of tax
- penalties for failing to comply with the by-law and interest on outstanding taxes or penalties
- audit and inspection powers
- the establishment and use of dispute resolution mechanisms

Identification of Accommodation Providers

The legislation provides Council the flexibility to determine in the by-law who the MAT would apply to and/or who could be exempt from the MAT. Staff is recommending that the MAT apply to all transient accommodation (resorts, hotels, motels etc) including those identified under the Short Term Rental by-law. The by-law defines a short term rental as "the use of a building for overnight guest lodging for a period of not more than 28 days and includes Bed and Breakfast Establishment, Cottage Rentals, Villas, Country Inns and Vacation Apartments."

Under section 400.2 the Municipal Act, 2001 provides the following mandatory exemptions from a MAT:

1. The Crown, every agency of the Crown in right of Ontario and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.
2. Every board as defined in subsection 1 (1) of the Education Act.
3. Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown.
4. Every hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the Public Hospitals Act and every private hospital operated under the authority of a licence issued under the Private Hospitals Act.
5. Every long-term care home as defined in subsection 2 (1) of the Long-Term Care

Homes Act, 2007.

6. Such other persons and entities as may be prescribed.

Administration of the Municipal Accommodation Tax

The collection and administration of taxes to be remitted by providers of transient accommodation must be designated to any person(s) or entity as agents for the municipality. It is recommended that the collection and administration of the tax would best be suited to be dealt with in-house in order to provide the Town with the appropriate and necessary oversight and capacity for auditing. A portion of the revenue from the tax will be used as required to ensure the Town has the necessary resources to oversee the administration of the tax.

The regulations for a MAT state that the municipality must share 50% of the revenue with an eligible tourism entity after deduction of costs associated with the collection and administration of the tax attributable to the fiscal year.

The municipality and eligible tourism entity that receives an amount through the by-law shall enter into an agreement respecting reasonable financial accountability matters in order to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, and the agreement may provide for other matters

Enforcement of the By-law

Every accommodation service provider shall keep books of account, records, and documents sufficient to provide the Town administration and its designated tax collectors with the necessary particulars of sales of accommodation, amount of levy collected and remittance.

The by-law will include provisions to permit designated Municipal Officials or designates the ability to inspect and audit all books, documents, transactions, and accounts of accommodation providers and require these providers to produce copies of any documents or records required for the purposes of administering and enforcing this by-law as required.

Currently under the Town's Short Term Rental By-law, all Short Term Rental operators must keep a daily register in the form of either a day journal or a sequentially numbered guest registration form. The day journal must have a separate date on each page with enough space provided for each guest to register. Both the Day Journal and/or the Guest Registration Form shall contain the guest name, the guest assigned room if applicable, the guest home address and home telephone number, the date and duration of stay, the guest's vehicle make, license plate number, and the Province or State in which the vehicle is registered. The daily register must be kept current and be available for inspection.

The implementation of the MAT by-law could apply to all accommodation providers offering rooms for rent for a period of less than 28 days. Any person in contravention of

the by-law would be guilty of an offence as provided for in subsection 429(1) of the Municipal Act, 2001.

The municipality would have the authority to impose penalties for anyone convicted of an offence under the by-law from a minimum of \$500 to a maximum of \$100,000 as provided for in subsection 429(3), paragraph 1 of the Municipal Act, 2001. Offenders are liable per occurrence with a maximum up to \$100,000 per day, as provided for in subsection 429(3) paragraph 2 of the Municipal Act, 2001.

5. STRATEGIC PLAN

1.1 To investigate the potential for enterprise based revenue generation

6. OPTIONS

There are various options available to Council regarding the implementation of a MAT. If Council decides to implement a tax they could look to consider the following options:

- 6.1 Approve the recommendations contained within the report being to implement a 4% MAT.
- 6.2 Receive the report and direct staff to prepare a draft by-law and engage with the industry stakeholders and report to Council on the implementation and administration of a Municipal Accommodation Tax (MAT) within the Town of Niagara-on-the-Lake
- 6.3 That the Council of The Corporation of the Town of Niagara-on-the-Lake commit, in principle, to implement a Municipal Accommodation Tax (MAT) of ____ % to be applied to all transient accommodations;
- 6.4 Consider amending the recommendations as submitted in this report, to include exemptions for any of the following:
 - Short Term Rentals with ____ or less rooms
 - All transient accommodations containing less than 10 rooms
 - Short Term Rentals which are owner occupied
 - Any properties zoned as residential

7. FINANCIAL IMPLICATIONS

Statistics indicate that should Council adopt a Tax on Accommodations, an estimated \$2,000,000 could be collected, with a minimum amount of 50% being shared with the Chamber of Commerce after deduction of costs associated with the collection and administration of the tax attributable to the fiscal year.

As mentioned above, a portion of the revenue from the MAT will be used as required to ensure the Town has the necessary resources to oversee the administration of the tax.

8. COMMUNICATIONS

Should Council wish to proceed with the implementation of a MAT, staff will develop a

public consultation strategy to ensure that the industry stakeholders are engaged in the process prior to developing the by-law and model for administration of the tax.

9. CONCLUSION

It is recommended that Council provide direction to staff regarding their commitment to implementing a MAT in order for staff to provide a by-law and further options for the implementation and administration of such a tax.

Prepared by,



Peter Todd
Town Clerk



Kyle Freeborn
Treasurer

Respectfully submitted,



Holly Dowd
Director of Corporate Services / Chief Administrative Officer

ATTACHMENTS



Appendix I.pdf



Appendix II.pdf



Appendix IV.pdf



Appendix III.pdf

WEB ATTACHMENTS

ATTACHMENTS FOR LINK

First Capital of Upper Canada - 1792



The Town of Niagara-On-The-Lake

Finance
Telephone (905) 468-4261
Facsimile (905) 468-4555

1565 Creek Road
P.O. Box 190
Virgil, Ontario
L0S 1T0

Report:	FC-17-012	Committee Date:	November 06, 2017
		Due in Council:	November 13, 2017
Report To:	Finance Advisory Committee		
Subject:	Bill 127 - Tax in Respect of Transient Accommodation		

1. RECOMMENDATION

It is respectfully recommended;

- 1.1 that a Finance Advisory Committee Meeting be held in the Council Chambers to hear comments from all owners/operators of Hotels/Motels and Short Term Rental Accommodations regarding a proposed tax being implemented on their establishment;
- 1.2 that each delegation be allotted no longer than two minutes;
- 1.3 that staff report back to Council with comments from the public following the Provincial Regulations being completed.

2. PURPOSE / PROPOSAL

The purpose of this report is to respond to Council's motion approved at the September 18, 2017 Council Meeting, requesting information on the proposed Tax in respect of Transient Accommodation or known as "Hotel Accommodation Tax".

3. BACKGROUND

At the September 18, 2017 Council Meeting the following motion was approved:

"that information regarding Municipal Accommodation Tax be provided to Council from staff in coordination with the Niagara-on-the-Lake Chamber of Commerce for a future Council Meeting."

The Manager of the Chamber of Commerce has met with Senior Management every other month since the beginning of the year, to share information on different topics. One of the discussions that has taken place is in regard to Bill 127, Stronger, Healthier Ontario Act 2017, which received Royal Assent May 17, 2017, specifically section 400 which states:

400.1 (1) A local municipality may, by by-law, impose a tax in respect of the purchase of transient accommodation in the municipality in accordance with this Part if the tax is a direct tax.

Requirements for by-law

(2) A by-law described in subsection (1) must satisfy the following criteria:

1. It must state the subject of the tax to be imposed.
2. It must state the tax rate or the amount of tax payable.
3. It must state the manner in which the tax is to be collected, including the designation of any persons or entities who are authorized to collect the tax as agents for the municipality and any collection obligations of persons or entities who are required to collect the tax under subsection (4).

Other contents of by-law

(3) A by-law described in subsection (1) may provide for,

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) penalties for failing to comply with the by-law;
- (d) interest on outstanding taxes or penalties;
- (e) the assessment of outstanding tax, penalties or interest;
- (f) audit and inspection powers;
- (g) the establishment and use of dispute resolution mechanisms;
- (h) the establishment and use of such enforcement measures as the council of the municipality considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due, including measures such as garnishment, the seizure and sale of property and the creation and registration of liens;
- (i) such other matters as the council of the municipality considers appropriate.

By-law may require persons or entities to collect tax

(4) Subject to subsection (5), a by-law described in subsection (1) may require certain persons or entities to collect the tax as agents for the municipality.

Exception

(5) The by-law shall not require the collection of the tax, as an agent for the municipality, by the Crown, any agency of the Crown or any authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.

Persons, etc., not subject to tax

400.2 A municipality is not authorized to impose taxes under section 400.1 on any of the following:

1. The Crown, every agency of the Crown in right of Ontario and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council.

2. Every board as defined in subsection 1 (1) of the *Education Act* .

3. Every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements from the Crown.

4. Every hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the Public Hospitals Act and every private hospital operated under the authority of a licence issued under the Private Hospitals Act.

5. Every long-term care home as defined in subsection 2 (1) of the Long-Term Care Homes Act, 2007.

6. Such other persons and entities as may be prescribed.

Effect re Part VIII

400.3 This Part does not limit the authority of a municipality under Part VIII (Municipal Taxation).

Enforcement measures

400.4 (1) The use of one or more enforcement measures established by a by-law under section 400.1 does not prevent a municipality from using any other remedy available in law to enforce the payment of amounts owing under this Part.

Priority of outstanding amounts

(2) A by-law under section 400.1 cannot provide that outstanding taxes, interest or penalties have priority lien status for the purposes of subsections 1 (2.1), (2.2) and (3) and cannot provide that such taxes, interest or penalties have a higher priority than they would otherwise have in law in relation to other claims, liens or encumbrances.

Enforcement by court

(3) If any tax, penalty or interest imposed pursuant to a by-law under this Part remains unpaid after it is due, the municipality may bring an action for the recovery of those amounts in any court in which a debt or money demand of a similar amount may be collected.

Limitation period

(4) An action under subsection (3) shall not be commenced against any person after the fourth anniversary of the day on which those amounts first became due and payable to the municipality unless, within that four-year period, the municipality makes a written demand for payment of those amounts by the person, in which case the action may be commenced at any time before the sixth anniversary of the day on which those amounts first became due and payable to the municipality.

Agreements re tax collection, etc.

400.5 A municipality may enter into agreements with another person or entity, including the Crown, providing for the collection of taxes imposed under section 400.1 and the administration and enforcement of the by-law imposing the taxes and the agreement may authorize the person or entity to collect taxes and administer and enforce the by-law on the municipality's behalf.

Regulations re power to impose taxes

400.6 On the recommendation of the Minister of Finance, the Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this Part, including,

(a) prescribing conditions and limits with respect to the imposition of a tax under a by-law made under subsection 400.1 (1);

(b) governing the collection of a tax imposed under this Part;

(c) prescribing, for the purposes of paragraph 6 of section 400.2, persons and entities who are not subject to a tax imposed under section 400.1;

(d) defining any word or expression used in this Part;

(e) governing the sharing of revenue from a tax on transient accommodation between the municipality that imposes the tax and one or more non-profit entities for the exclusive purpose of the non-profit entity in promoting tourism in Ontario or in the municipality.

12 Subsection 451.1 (1) of the Act is amended by striking out “under sections 9, 10 and 11 or Part IV or providing” and substituting “under sections 9, 10 and 11, Part IV or IX.1 or section 400.1 or providing”.

Commencement

13 (1) Subject to subsection (2), this Schedule comes into force on the day the Stronger, Healthier Ontario Act (Budget Measures), 2017 receives Royal Assent.

(2) Sections 1, 2, 5, 6, 10, 11 and 12 come into force on a day to be named by proclamation of the Lieutenant Governor.

4. DISCUSSION / ANALYSIS

Council requested information on the proposed "Hotel Accommodation Tax" that has received Royal Assent by the Provincial Government.

For Council's information, the City of Toronto has approved the following:

Subject to receiving the necessary legislative authority, City Council:

- a. endorse the creation of a Hotel and Lodging Tax in the City of Toronto, at rates of 4 percent of hotel accommodation revenues, and up to 10 percent of short term rental revenues; and*
- b. direct staff to report back on the proposed design features and implementation authorities, including a revenue allocation policy, and status of the required legislative authority, for implementation effective as soon as practical in 2017.*

Senior Management Team has discussed the proposed tax with the Manager of the Chamber of Commerce. The 2017 Provincial Budget states:

All municipalities that adopt the hotel tax and that have an existing Destination Marketing Fee (DMF) program in place would be required to share their hotel tax revenue with the appropriate not-for-profit tourism organization in an amount that matches the total revenue generated by the existing DMF program. For local municipalities where such a program does not exist, at least 50% of their hotel tax revenue would be shared with the respective Regional Tourism Organization or a not-for-profit tourism organization.

Therefore, should Council adopt a Hotel Accommodation Tax, at a % to be determined, at least 50% of the proceeds would be shared with the Chamber of Commerce.

5. STRATEGIC PLAN

This report aligns with Council's Strategic Plan initiative 1.1 Finance - To investigate the potential for enterprise based revenue generation

6. OPTIONS

1. That a Finance Advisory Committee Meeting be held in the Council Chambers to hear all comments from owners/operators of Hotels/Motels and Short Term Rental Accommodations regarding a proposed tax being implemented on their establishment (as recommended)
2. That a meeting not take place and Council direct staff to prepare the necessary by-law to institute a Tax in respect of Transient Accommodations.

7. FINANCIAL IMPLICATIONS

Statistics indicate that should Council adopt a Tax on Accommodations, an estimate of \$2,000,000 could be collected, with a minimum amount of 50% being shared with the Chamber of Commerce.

8. COMMUNICATIONS

Should Council decide on holding a meeting specifically to hear the owners/operators of Hotels/Motels and Short Term Rental Accommodations regarding a proposed tax being implemented on their establishment; the date and time of the meeting will be advertised on the Town's website and social media.

9. CONCLUSION

A Finance Advisory Committee Meeting be held to hear comments from all owners/operators of Hotels/Motels and Short Term Rental Accommodations regarding a proposed tax being implemented on their establishment.

Respectfully submitted,



Holly Dowd
Chief Administrative Officer/Director of Corporate Services

ATTACHMENTS



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WEB ATTACHMENTS

ATTACHMENTS FOR LINK

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1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 • Fax: 905-468-2959

www.notl.org

The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

SUBJECT: Municipal Accommodation Tax

Date: November 30, 2017

Prepared By: Peter Todd

Department: Corporate Services

BACKGROUND INFORMATION

On November 13, 2017 staff provided Report FC-17-012 (Appendix I) to Council regarding information surrounding Bill 127 - A Stronger, Healthier Ontario which received Royal Assent on May 17, 2017.

On November 23, 2017, the Province of Ontario issued the Transient Accommodation Regulation 435/17, which comes into force December 1, 2017 and provides the necessary provisions for municipalities across Ontario to implement a Municipal Accommodation Tax (MAT).

The regulation allows municipalities to implement a mandatory Municipal Accommodation Tax for transient accommodations through a bylaw and set the tax rate associated with the MAT. In addition, the regulation allows the municipality to enter into agreements with entities to collect the tax, acting as agents for the municipality, and prescribes a revenue sharing disposition formula where proceeds are shared with the eligible local tourism entity.

NEXT STEP / CONCLUSION

The recommendations contained in report FC-17-012 requested staff to schedule a Finance Advisory meeting to allow members of the industry an opportunity to provide comments on the proposed implementation of the tax. Staff has scheduled a date for **Monday, January 22, 2018 starting at 6:00 p.m.**

A preliminary report will be prepared by staff to for the Committee meeting for members of the industry to review and provide comment to be published on the website January 11, 2018. As mentioned in the recommendations of the report, delegations will be limited to a 5 minute time limit, any additional time provided will be at the discretion of the chair.

The meeting will be advertised on the Town's website, social media, and newsletters. Additionally, communication of this meeting will be provided electronically to all Hotel and Licensed Short Term Rental operators within the municipality.

ATTACHMENTS



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