

- 5. HOTEL AND SHORT TERM ACCOMMODATION TAX**
- TAXE SUR LES CHAMBRES D'HÔTEL ET L'HÉBERGEMENT DE COURTE DURÉE**

COMMITTEE RECOMMENDATIONS

- 1. That Council consider the following report recommendations, as referred by Finance and Economic Development Committee:**
 - a. Adopt a four percent Municipal Accommodation Tax via bylaw effective January 1, 2018 and delegate the authority to the Mayor and City Manager to negotiate and to enter into the necessary agreements, in consultation with the City Clerk and Solicitor, to implement the mandatory Municipal Accommodation Tax in the City of Ottawa; and**
 - b. Provide the revenue proceeds in the amount defined in Municipal Act Regulation 435/17 to the local tourism entity as further described in this report for services or activities supporting the promotion and development of tourism to Ottawa; and**
- 2. That Council consider the following motions, as referred by Finance and Economic Development Committee:**
 - a. That Recommendation 1 of report ACS2017-CSD-REV-0011 be replaced with the following:**
 - 1. Adopt a four percent Municipal Accommodation via by-law effective January, 1 2018 with a sixty-day phase in for accommodators of 10 rooms or less which will be charged on the accommodation portion of their guest invoice, and delegate the authority to the Mayor and City Manager to negotiate and to enter into the necessary agreements, in consultation with the City Clerk and Solicitor, to implement the mandatory Municipal Accommodation Tax in the City of Ottawa;**

- b. That the Municipal Accommodation Tax by-law included in Document 2 provide that bed and breakfast operators may exempt guests from paying the Municipal Accommodation Tax on the breakfast portion of the invoice, which may be valued at up to twenty-five percent of the total guest invoice.**

RECOMMANDATIONS DU COMITÉ

- 1. Que le Conseil prenne acte les recommandations du rapport suivantes présentées par le Comité des finances et du développement économique:**
 - a. D'adopter par règlement une taxe municipale de quatre pour cent sur l'hébergement temporaire, avec effet le 1er janvier 2018; et de déléguer au maire et au directeur municipal l'autorité de négocier et de conclure les ententes requises, en collaboration avec le greffier municipal et avocat général, en vue d'appliquer la taxe municipale obligatoire sur l'hébergement temporaire dans la ville d'Ottawa;**
 - b. De verser le produit de cette taxe, selon le montant défini au règlement 435/17 de la Loi sur les municipalités, à l'entité locale du tourisme comme décrit dans le présent rapport, pour financer des services ou des activités qui favorisent la promotion et le développement du tourisme à Ottawa; et**
- 2. Que le Conseil prenne acte les motions suivantes présentées par le Comité des finances et du développement économique:**
 - a. De remplacer la recommandation 1 du rapport ACS2017-POP-REV-0011 par ce qui suit :**
 - 1. D'adopter par règlement une taxe municipale de quatre pour cent sur l'hébergement temporaire, laquelle s'appliquera à la portion « hébergement » de la facture des clients, qui entrera en vigueur le 1er janvier 2018 et qui sera assortie d'une période de transition de 60 jours pour les exploitants d'établissements de 10 chambres ou moins; et de déléguer au maire et au directeur municipal le pouvoir de négocier et de conclure les ententes requises, en collaboration avec le**

greffier municipal et avocat général, en vue d'appliquer la taxe municipale obligatoire sur l'hébergement temporaire dans la ville d'Ottawa;

- b. Que le règlement municipal sur la taxe sur l'hébergement temporaire, joint en document 2, prévoit que les exploitants de gîtes touristiques pourront exempter de la taxe sur l'hébergement temporaire la portion de la facture de leurs clients qui correspond au déjeuner, jusqu'à concurrence de 25 % de la facture totale.**

DIRECTIONS TO STAFF

Staff provided the following direction to staff to provide this information prior to the Council meeting of December 13, 2017:

That staff be directed to:

- Review Alberta's model;
- Clarify exemption and definitions of Bed & Breakfasts and Airbnb's;
- Is 60 days the upper limit or can the limit be higher;
- Clarify the number of rooms for Bed & Breakfast establishments;
- The amount of Bed & Breakfast establishments in Ottawa.

INSTRUCTIONS AU PERSONNEL

Le personnel donne comme directive au personnel de fournir ces renseignements avant la réunion du 13 décembre 2017 du Conseil :

Que l'on demande au personnel :

- d'examiner le modèle de l'Alberta;
- d'explicitier les définitions de gîte touristique et de location Airbnb ainsi que les exemptions à cet égard;
- de vérifier si la limite absolue est de 60 jours ou si elle peut être plus élevée;
- de préciser le nombre de chambres permises dans les gîtes touristiques;
- de dénombrer les gîtes touristiques à Ottawa.

DOCUMENTATION/DOCUMENTATION

1. General Manager and City Treasurer's report, dated 27 November 2017 (ACS2017-CSD-REV-0011)

Rapport du greffier municipal et avocat général, daté le 27 novembre (ACS2017-CSD-REV-0011)

2. Extract of draft Minutes, Finance and Economic Development Committee, 5 December 2017

Extrait de l'ébauche du procès-verbal, Comité des finances et du développement économique, le 5 décembre 2017

**Report to
Rapport au:**

**Finance and Economic Development Committee
Comité des finances et du développement économique
5 December 2017 / 5 décembre 2017**

**and Council
et au Conseil
13 December 2017 / 13 décembre 2017**

**Submitted on November 27, 2017
Soumis le 27 novembre 2017**

**Submitted by
Soumis par:
Marian Simulik, General Manager and City Treasurer, Corporate Services /
Directrice générale et Trésorière municipale, Services généraux**

**Contact Person
Personne ressource:
Wendy Stephanson, Deputy City Treasurer Revenue, Corporate Services /
Trésorière municipale adjointe Recettes, Services généraux
613-580-24254, ext./poste 13192, Wendy.Stephanson@ottawa.ca**

Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2017-CSD-REV-0011

SUBJECT: Hotel and Short Term Accommodation Tax

OBJET: Taxe sur les chambres d'hôtel et l'hébergement de courte durée

REPORT RECOMMENDATIONS

**That the Finance and Economic Development Committee recommend that
Council:**

- 1. Adopt a four percent Municipal Accommodation Tax via bylaw effective January 1, 2018 and delegate the authority to the Mayor and City Manager to negotiate and to enter into the necessary agreements, in consultation with the City Clerk and Solicitor, to implement the mandatory Municipal Accommodation Tax in the City of Ottawa; and**
- 2. Provide the revenue proceeds in the amount defined in Municipal Act Regulation 435/17 to the local tourism entity as further described in this report for services or activities supporting the promotion and development of tourism to Ottawa.**

RECOMMANDATIONS DU RAPPORT

Que le Comité des finances et du développement économique recommande au Conseil :

- 1. D'adopter par règlement une taxe municipale de quatre pour cent sur l'hébergement temporaire, avec effet le 1er janvier 2018; et de déléguer au maire et au directeur municipal l'autorité de négocier et de conclure les ententes requises, en collaboration avec le greffier municipal et avocat général, en vue d'appliquer la taxe municipale obligatoire sur l'hébergement temporaire dans la ville d'Ottawa;**
- 2. De verser le produit de cette taxe, selon le montant défini au règlement 435/17 de la Loi sur les municipalités, à l'entité locale du tourisme comme décrit dans le présent rapport, pour financer des services ou des activités qui favorisent la promotion et le développement du tourisme à Ottawa.**

BACKGROUND

In 2004, the Ottawa Gatineau Hotel Association (OGHA), in conjunction with Ottawa Tourism and hoteliers in Ottawa, introduced a voluntary three percent Destination Marketing Fee (DMF) that generated funds to support local tourism promotion efforts undertaken by Ottawa Tourism. In Canada, a supplementary provincial hotel tax is in place in British Columbia, Alberta, Quebec, Nova Scotia and Newfoundland. Details of the various programs across Canada can be found in Document 1. In Ottawa, the DMF is not a government imposed tax, but it is supported by the provincial government.

In the absence of specific provincial legislation, the OGHA introduced an industry-led voluntary three percent room-night levy, which in recent years has raised approximately \$8M to \$9M annually in support of destination marketing. The three percent fee is applied only to the room portion of guest invoices. This amount is remitted by the participating hotels to OGHA, who in turn remits the funds to Ottawa Tourism to promote Ottawa as a tourism destination. It is not used for the marketing of any specific hotel. This funding mechanism is very common in Canada, as well as internationally. All of these funds are invested by Ottawa Tourism in sales and marketing activities, in order to market Ottawa as a destination of choice on the world stage. The expenditures are governed by the Destination Marketing Program Management Committee and its sub-committees.

In Ontario, Destination Marketing Programs (DMPs) and other tourism fees have traditionally been voluntary, industry-led initiatives that have been recognized by many accommodators and tourism operators as an effective means of supporting regional tourism marketing and development efforts. Contributions to DMPs from participating hotels are calculated in a number of ways, including for example, as a flat rate per room night sold or a percentage of room revenues. DMPs or other industry fees are not legislated by the government, are generally collected through non-profit local tourism industry entities and are not apportioned with the local government.

The 2017 Ontario Budget, [A Stronger, Healthier Ontario](#), granted authority to Ontario municipalities to impose a mandatory Municipal Accommodation Tax, which would apply to hotels, motels, bed & breakfasts, participants operating a common platform for individual accommodators, and all other accommodators with a room renting consecutive room nights of under 30 days. Municipalities that adopt the Municipal Accommodation Tax who have an existing Destination Marketing Fee (DMF) program will be required to revenue share an amount equivalent to what was raised from the DMF to the local non-profit tourism entity who previously received such revenues. For municipalities without such a program, at least 50 percent of the Municipal Accommodation Tax revenue is to be allocated to the appropriate eligible tourism entity.

As a result, [Bill 127, A Stronger, Healthier Ontario](#) was passed on May 17, 2017, and provides the Province with the legislative framework for the Municipal Accommodation Tax. The Ministry of Municipal Affairs, Ministry of Finance, and Ministry of Tourism, Culture and Sport have collaborated to create a Regulation which specifies the requirements for the administration of the Municipal Accommodation Tax.

DISCUSSION

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.

There are conditions prescribed in the Regulation that determine the required revenue sharing dispositions. The municipality is required to provide the local tourism entity:

- in 2018, the amount collected and received by the non-profit tourism entity by the voluntary DMF from the prescribed base year of 2017
- and in subsequent years, the previous fiscal year MAT revenue collected and received by the non-profit tourism entity adjusted by a 10-year rolling average of the annual percentage change in Ontario's total tourism receipts published by the Ministry of Tourism, Culture and Sport.

The Regulation requires that the City ensure the local tourism entity receives similar revenues as received from the Destination Marketing Program in the last fiscal year before the tax came into effect. This means the City is prescribed by Regulation to share similar revenues collected annually through the MAT with the local tourism entity based on the DMF revenues projected for 2017. The City is not required to supplement the MAT if revenues are below the base year or the previous fiscal year.

Since the announcement by the Province, City staff have worked closely with OGHA, the major stakeholder with respect to the implementation of a Municipal Accommodation Tax. At this time, approximately 50% of the hotels in Ottawa, representing roughly 90% of the hotel room stock, have an agreement with OGHA to invoice and remit a voluntary DMF and these agreements expire December 31, 2017. OGHA currently oversees and collects the voluntary Destination Marketing Fee from hotels, and therefore has the

necessary administrative and collection processes in place to maintain this role and collect the Municipal Accommodation Tax on behalf of the City and to continue to collaborate with the eligible local tourism entity, Ottawa Tourism, to share revenues to promote tourism to Ottawa.

Both the OGHA and Ottawa Tourism are supportive and collaborating with the City, as they anticipate a number of benefits stemming from the implementation of a mandatory Municipal Accommodation Tax. A MAT ensures fairness across the sector, by requiring every eligible accommodator who benefits from Ottawa Tourism's sales, marketing and destination development efforts to contribute their fair share. This would lead to a level playing field in the industry. Uniformity in collection throughout all accommodators in Ottawa would also offer visitors a consistent experience. With a mandatory Municipal Accommodation Tax in place, Ottawa Tourism would benefit from greater certainty and capacity to attract more major events and conventions.

Implementation Plan

If the recommendations in this report are approved, a mandatory Municipal Accommodation Tax of four percent will be applicable within the City of Ottawa as of January 1, 2018. This is an increase from the current three percent voluntary Destination Marketing Fee in place today. This mandatory tax would generate an additional one percent of tax revenue than the current voluntary DMF. Both OGHA and Ottawa Tourism support the mandatory four percent Municipal Accommodation Tax, as it would provide additional capacity to our local tourism sector to attract more major events and conventions, as well as fund Ottawa 2017 legacy events and destination development initiatives.

Recommendation 1 - Adopt a four percent Municipal Accommodation Tax via bylaw effective January 1, 2018 and delegate the authority to the Mayor and City Manager to negotiate and to enter into the necessary agreements, in consultation with the City Clerk and Solicitor, to implement the mandatory Municipal Accommodation Tax in the City of Ottawa.

Part XIII.1 of the *Municipal Act, 2001* and Regulation 435/17 provides that a municipality may, by way of bylaw, impose a tax with respect to the purchase of transient accommodations. The *Municipal Act, 2001* provides that the By-law may provide for the tax rate but does not specify the percentage or flat amount of the Municipal

Accommodation Tax. Based on our consultations with major stakeholders, it is recommended that Committee and Council approve the draft bylaw as shown in Document 2, making the four percent Municipal Accommodation Tax mandatory in the City of Ottawa. This is one percent more than the voluntary Destination Marketing Fee adopted in 2004. Discussion with other municipalities that are considering adopting the Municipal Accommodation Tax indicate that many are considering a four percent rate.

The *Municipal Act, 2001* also permits the by-law to provide for exemptions from the tax, penalties for failing to comply with the by-law, interest on the outstanding taxes or penalties, audit requirements, and enforcement measures as appropriate, for amounts remaining unpaid. The draft bylaw for the Municipal Accommodation Tax as outlined in Document 2 of this report confirms the tax rate of four percent, with certain exemptions, and provides the manner in which the tax is to be collected, enforced, including the designation of any entities who are authorized to collect the tax as agents for the municipality and any collection obligations of entities who are required to collect the tax. It is recommended that the current collection process with the OGHA be maintained and that the agreements to be executed provide that the City has appropriate oversight and audit authority of the tax being collected through the authorized agents.

The Transient Accommodation Regulation 435/17 also requires that providers of transient accommodation are required to include on every invoice or receipt a separate item for the amount of tax on transient accommodation imposed on the purchase identified as “Municipal Accommodation Tax”, as described in the City’s draft by-law.

The Part XII, 1. “Power to Impose Transient Accommodation Tax”, which was recently added to the *Municipal Act, 2001* effective December 1, 2017, permits the City to enter into agreements for the purposes of collecting the four percent MAT from transient accommodation providers. Section 400.5 of the *Municipal Act, 2001* provides that the municipality may enter into agreements with another person or entity, to provide for the collection of the tax imposed and to administer and enforce the bylaw on the municipality’s behalf.

The Regulation also requires the City to enter into a financial agreement that outlines reasonable financial accountability over matters in order to ensure that amounts paid to the local tourism entity are used for the exclusive purpose of promoting and developing tourism.

Upon approval of this report, staff will enter into an agreement that designates the Ottawa Gatineau Hotel Association as collector of the Municipal Accommodation Tax on behalf of the City of Ottawa, and Ottawa Tourism as the eligible tourism entity to receive prescribed revenues for tourism promotion and development. The agreement would specify the terms and conditions of the collections process, ensuring appropriate accountability, oversight and governance of the budget and funds collected through the Municipal Accommodation Tax. The agreements will contain clauses to ensure obligations are clear between the Parties, any exclusions to the MAT, how the tax payment is made and remitted, the penalties for failing to comply with the by-law, the composition of the MAT Management Committee that will have oversight of the MAT budget, audit and inspection powers, and any sub-committees and the Tourism Development Council composed of tourism stakeholders, including representatives from the City of Ottawa, Ottawa Tourism, OGHA, the Shaw Centre, the Ottawa International Airport, Invest Ottawa, the National Capital Commission, local professional sports teams, Ottawa Festivals, and other. The agreement will also include termination provisions and rights on termination. Staff will seek to conclude an agreement shortly with OGHA and Ottawa Tourism, with an implementation date of January 1, 2018.

City staff will also seek to enter into MAT collection agreements with other entities outside of the OGHA membership. This includes but is not limited to participants operating a common platform for individual accommodators, and all other accommodators with a roof renting consecutive room nights of under 30 days not covered under the OGHA collection mandate. Examples of common platforms are Airbnb and HomeAway. These discussions have commenced and will continue in 2018 and beyond. Should individual accommodators not comply with the MAT Bylaw, the municipality will rely upon the *Municipal Act*, section 425 and impose a system of fines under section 429 for offences of this nature, as further described in the attached by-law.

Recommendation 2 - Provide the revenue proceeds in the amount defined in the Municipal Act Regulation 435/17 to the local tourism entity for services or activities supporting the promotion and development of tourism to Ottawa

As a voluntary Destination Marketing Fee was in place prior to the legislative change and regulation issuance, the Regulation generally requires the City to share revenues with Ottawa Tourism so that it may receive similar revenues to those that were received

in the last fiscal year through the Destination Marketing Program, before the tax came into effect.

The report recommends the adoption of a four percent MAT, which is more than that current voluntary three percent DMF. The delegated authority is provided for the Mayor and City Manager, in consultation with the City Clerk and Solicitor, to execute the required agreements. The financial agreements with OGHA and Ottawa Tourism will provide for reasonable financial accountability and that the revenue disposition be used by the non-profit for the exclusive purpose of promoting and developing local tourism.

OGHA and Ottawa Tourism are supportive of the implementation of a mandatory Municipal Accommodation Tax in Ottawa and of the recommendations contained within this report.

RURAL IMPLICATIONS

There are no rural implications of this report.

CONSULTATION

City staff have consulted with OGHA and Ottawa Tourism in the writing of this report and they are supportive of the recommendations in this report.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a City-wide report.

ADVISORY COMMITTEE(S) COMMENTS

There are no advisory committee comments.

LEGAL IMPLICATIONS

There are no legal impediments to approving the recommendations in this report.

Part X11.1 of the *Municipal Act, 2001* permits the City of Ottawa to impose a transient accommodation tax by by-law in respect of the purchase of transient accommodation in the municipality. The associated by-law is substantially in the form attached as Document 2.

Part X11.1 of the *Municipal Act, 2001* also provides that the City may, through agreements, require certain person or entities to collect the tax as agents for the municipality, which include the Ottawa Gatineau Hotel Association as further described in this report.

The Transient Accommodation Tax Regulation 435/17 made under the *Municipal Act, 2001* requires that the City of Ottawa enter into an agreement respecting financial accountability by the eligible tourism entity receiving the accommodation tax, in order to ensure that the amounts received by the tourism entity are used for the exclusive purpose of promoting tourism. In this regard, the Ottawa Tourism is currently the eligible tourism entity as further described in this report.

This report recommends that the Mayor and City Manager negotiate and enter into the necessary agreements in consultation with City Clerk and Solicitor, to implement the municipal accommodation tax in the City of Ottawa which will include, at this time, agreements with the Ottawa Gatineau Hotel Association to collect the tax, and Ottawa Tourism as the eligible tourism entity who may receive MAT revenues as prescribed in the Regulation for promoting tourism.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications.

ASSET MANAGEMENT IMPLICATIONS

There are no asset management implications.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts relating to this report.

TERM OF COUNCIL PRIORITIES

This meets Council's priority with respect to Financial Responsibility and Economic Prosperity to Promote Ottawa.

SUPPORTING DOCUMENTATION

Document 1 - Practices in Other Cities and Provinces (immediately follow this report)

Document 2 - draft Municipal Accommodation Tax By-Law (*Held on file with the City Clerk*)

DISPOSITION

The Mayor and the City Manager, in consultation with the City Clerk and Solicitor, are to execute the necessary agreements to implement the MAT. The City Clerk and Solicitor to place the required by-law on the agenda of Council for enactment.

Document 1

Practices in other cities and provinces across Canada

In Canada, a supplementary provincial accommodation tax is in place in British Columbia, Alberta, Quebec, Nova Scotia and Newfoundland. Below outlines the various programs in place.

Alberta

Hotel room tax was introduced in Alberta in 1987. The Hotel Room Tax Act provided for the collection of tax at the rate of five per cent of the purchase price on accommodation in Alberta. Until March 31, 2005, hotels in Alberta were required to collect the tax from both business and personal purchasers of the accommodation, then remit the tax collected to the Alberta Tax and Revenue Administration (TRA). TRA, administered the Hotel Room Tax Act. In the spring of 2005, the Hotel Room Tax Act was replaced by the Tourism Levy Act, which reduced the rate to four percent effective April 1, 2005. The levy is collected and remitted to TRA by the providers of temporary accommodation in Alberta. The levy does not apply to rooms occupied continuously for 28 days or more by the same individual, or in establishments with fewer than four bedrooms available for rent at the same time in the same location.

British Columbia

The Municipal and Regional District Tax (MRDT) was introduced in 1987 to provide funding for local tourism marketing, programs and projects. The tax is intended to help grow British Columbia's (BC's) revenues, visitation and jobs, and amplify BC's tourism marketing efforts in an increasingly competitive marketplace. The MRDT is an up to three percent tax applied to sales of short-term accommodation provided in participating areas of British Columbia on behalf of municipalities, regional districts and eligible entities.

Newfoundland

An accommodation lodging tax of four percent charged on the amount of the lodging is applied in St. John's and three other jurisdictions. In 2015, Hospitality Newfoundland and Municipalities in Newfoundland were looking to make the tax province-wide.

Nova Scotia

In 2002, Halifax Regional Council approved by Bylaw a two percent Municipal Hotel Room Tax in Halifax based on hotel room sales.

Quebec

Revenu Québec administers a tax on lodging in specific regions where the tax on lodging must be collected every time an accommodation unit is rented for **more than six hours** per 24-hour period in an establishment that is subject to the tax. The tax is calculated based on a [3.5% of the price of an overnight stay](#), or \$3.50 per overnight stay if the tax is billed to a person that acquires the accommodation unit for purposes of resupply to another party. Airbnb and the Revenu Québec have announced a lodging tax agreement on short-term rentals in Québec. As of October 1, 2017, Airbnb will automatically collect and remit to Revenu Québec a 3.5% lodging tax on its bookings in the Province.