



Town of Niagara-on-the-Lake

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REPORT #: CS-23-033

COMMITTEE DATE: 2023-10-24

DUE IN COUNCIL: 2023-10-24

REPORT TO: COTW-General

SUBJECT: Update to Municipal Accommodation Tax (MAT) By-Law – Short Term Rentals

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council approve the attached by-law (**Appendix I**), which will rescind and replace the existing MAT By-Law No. 5435-22, effective January 1, 2024, which incorporates all Short Term Rentals into the scope of the MAT By-Law; and
- 1.2 Council receive the attached feedback and suggestions from STAY Niagara-on-the-Lake (the Niagara-on-the-Lake Bed and Breakfast Association) (**Appendix II**).

2. EXECUTIVE SUMMARY

- On June 20, 2022, Town Council approved By-law No. 5435-22 to apply Municipal Accommodation Tax (MAT) to accommodations with five or more bedrooms at a rate of 2%, with the MAT escalating to 3% on January 1, 2024, and 4% on January 1, 2025.
- On May 23, 2023, Council passed a motion to include all accommodation types under the MAT By-Law commencing January 1, 2024. Previously, the By-Law only encompassed those with five (5) or more rooms.
- Staff received a letter from STAY Niagara-on-the-Lake (the Niagara-on-the-Lake Bed and Breakfast Association), which outlined technology and implementation concerns around the MAT for Short Term Rental operators. Staff have addressed those concerns in the By-Law update and will update related support materials on the Town's website.
- Other updates in the MAT By-Law include an update to remittance deadlines to bring them more in line with trends around the Province. Hotels/Motels/Inns will now be on a monthly remittance schedule, with Short Term Rentals on a quarterly remittance schedule.
- Projected revenues of bringing Short Term Rentals with fewer than five (5) rooms into the scope of the MAT may generate an additional \$1.24 million in revenue, which will have to be shared 50% with the local Destination Marketing Organization (DMO).
- Staff will refine estimates and assumptions for the 2024 Operating Budget, as not all Short Term Rentals operate year-round.

3. PURPOSE

The purpose of this report is to update the Town's Municipal Accommodation Tax By-Law based on Council's motion to include Short Term Rentals under the Town's MAT By-Law, which will take effect January 1, 2024, and to share input received from STAY Niagara-on the-Lake.

4. BACKGROUND

On Monday, June 20, 2022, Town Council approved Municipal Accommodation Tax By-law No. 5435-22. This applied only to accommodations with five or more bedrooms, initially at a rate of 2%.

On May 23, 2023, Council passed a motion to extend the MAT to Short Term Rental Accommodations with the following motion:

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

WHEREAS, on Monday, June 20, 2022, Town Council approved Municipal Accommodation Tax By-law No. 5435-22;

WHEREAS, the Town Staff is currently engaged in discussions with the Ontario Restaurant Hotel and Motel Association to potentially collect the Municipal Accommodation Tax revenues on behalf of the Town;

WHEREAS, the current MAT By-law, in compliance with Ontario Regulation 435/17 and Council's direction, includes, but is not limited to, the following elements:

- Applicable to accommodation establishments with five or more rooms*
- Starting on July 1, 2022, at a rate of 2%, and moving to 3% on January 1, 2024, and 4% on January 1, 2025 (Bookings made before July 1, 2022, with the stay occurring after July 1, 2022, are exempt).*

WHEREAS, it would be fair and consistent to apply the MAT to all accommodation establishments (e.g., hotels and Short Term Rental Operators);

THEREFORE BE IT RESOLVED THAT the MAT be applied to ALL accommodation establishments, including those with less than five rooms, effective January 1, 2024,

AND FURTHER THAT the Town's MAT By-law be updated to reflect this change."

Town Staff have prepared updates to the By-law (**Appendix I**) to include all Short Term Rental Operators. In addition, Staff have received feedback from STAY Niagara-on-the-Lake on potential implementation issues (**Appendix II**) and have considered them for implementation in the new iteration of the MAT By-Law.

5. DISCUSSION / ANALYSIS

Town Staff have made changes and updates to By-Law No. 5435-22, which is presented as a new By-law to take effect January 1, 2024. The changes are shown in red in **Appendix III** to this report.

Changes include the following:

- Removed the reference around MAT being applicable to accommodations with five or more rooms, applying MAT to all accommodations.
- Updated the remittance schedules around different accommodation types, with Short Term Rentals being updated to a quarterly remittance schedule and all other accommodation types (hotels, motels, and Inns) being monthly. (This will improve cash flows for the Town and allow Staff to have a better grasp of incoming funds for financial planning purposes. Hotels are typically well-established operations with more sophisticated accounting systems and are dealing with higher volumes of funds; therefore, it is anticipated that the impact on hotels will be minimal for changing the processing times for returns and payments. Short Term Rentals can vary in how they operate but are typically small, independently owned and operated and have varying levels of technology to support their operation. They may also only operate for limited times throughout the year and typically deal with a smaller volume of revenues.)
- Completed general housekeeping, such as removing the reference to a 2% MAT rate, which will no longer be applicable when the By-Law goes into effect on January 1, 2024.
- Made updates or amendments related to feedback received from STAY Niagara-on-the-Lake.

Town Staff received a letter from STAY Niagara-on-the-Lake (NOTL) with the following main areas of concerns and recommendations, which are summarized below:

Stay NOTL STR Implementation Areas of Concern:

- **Technological issues:** members do not use one standard reservation system (or room management system), and there are upwards of 10 or more systems in use. Some of these systems can easily accommodate the MAT, while others do not. Technology issues are complicated by the requirement to charge HST on top of MAT. There are actions the Town can take to reduce the technology-related issues of MAT implementation.
- **The Management of the MAT:** requires manual effort on the part of STR owners above normal operations, and there are actions the Town can take to minimize the effort required.
- **Booking Dates:** Many guests book up to a year in advance. Those who have booked already or who booked before the STR is able to implement its technology solution will have been quoted a rate that does not include the MAT. Going back to these clients with a new, higher quote reflects poorly on the STR operator and the Town.
- **Booking platforms:** The MAT By-Law needs to be updated to reflect the changes around STRs so that booking systems can be updated. Booking platforms require documentation (i.e. An approved by-law) in order to make these changes.

Stay NOTL Recommendations:

- **Allow STRs to charge an "equivalent MAT fee" (pre-HST):** Where it is not practical to have the STR's technology solution calculate the MAT, allow the STR to charge a line item on the receipt which is equivalent to the MAT fee. This simple clarification will ease the MAT implementation across the different reservation systems and online travel agencies typically used by the STR community. Staff have reviewed this item and have

previously recognized the technological difficulties with implementing the new tax when implementing with Hotels/Motels/Inns or accommodations with five (5) or more rooms.

Staff Recommendation: Staff agree that the system does not have to calculate the tax, and a line item or a note which explains the charge on the receipt is acceptable. A section exists on the Town's Frequently Asked Question page which addresses this item:

Do I need to show the Municipal Accommodation Tax on the invoice or receipt?

Yes, every bill, receipt, invoice, or similar document for the purchase of accommodation must have a separate line item identified as "Municipal Accommodation Tax" showing the rate at which the Municipal Accommodation Tax is calculated (2%) and the dollar amount of the Municipal Accommodation Tax.

If limitations with booking platforms or software do not allow the MAT to be calculated as a separate line item, the MAT can be worked into the room cost. In this case, a note on the receipt, invoice or statement is required and must include the MAT percentage (2%) as well as the dollar amount.

- **Exempt pre-existing contracts or reservations created prior to January 1, 2024, for Short Term Rentals:** This is the same approach used for the implementation of MAT for hotels and accommodations with five or more rooms. Without implementing this, it would have a negative impact on the Town's image and Niagara-on-the-Lake as a destination.

Staff Recommendation: Staff have reviewed this item and agree that it is a reasonable measure, considering this was a similar measure implemented with hotels and accommodations with five (5) or more rooms previously. Paragraph (m) under the Exemption section of the attached draft by-law (**Appendix I**) was inserted to address this: *"Short-Term Rental Bookings in establishments which have less than five (5) rooms with reservations made prior to January 1st, 2024."*

- **An assumption that if, in the absence of a MAT line item on the receipt or the contract of a reservation made on or after January 1, 2024, the MAT has been included in the nightly room rate.**

Staff Recommendation: Section 5 of the draft by-law has been updated to include language to address this:

"Should the MAT not be listed as a separate line item on the receipt, it is deemed to be part of the room price."

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.3 Strategies & Masterplans

Action

1.3 a) Strategies & Masterplans

7. OPTIONS

- 7.1 **Option 1:** Council approve the attached by-law (***Recommended***)
- 7.2 **Option 2:** Council not approve the attached by-law and request Staff to make amendments to the proposed MAT program (***Not recommended***)

8. FINANCIAL IMPLICATIONS

The addition of Short-Term Rentals will significantly change the scope of MAT and overall potential revenue, of which 50% must be shared with the local Destination Marketing Organization.

Previously, upwards of 370 Short-Term Rental Operators and 945 rooms were excluded under the scope of the MAT by-law. For demonstration purposes only, using original assumptions around projecting MAT revenue in 2022 of \$200 a room at 60% occupancy and a 3% MAT, additional MAT revenues would be projected to be \$1.24 million.

Staff will incorporate updated assumptions into the 2024 Operating Budget and further refine estimates where possible. The above projections do not factor in how some Short-Term Rental establishments operate, as some establishments do not operate year-round and may temporarily suspend bookings for portions of the year.

9. ENVIRONMENTAL IMPLICATIONS

N/A – There are no environmental impacts to this report.

10. COMMUNICATIONS

The changes to the MAT By-Law will be communicated to all Short-Term Rental operators, including providing a copy of the By-Law provided so that operators may begin to update their booking platforms. Staff will also forward the By-law to popular booking platforms to make them aware of the change.

A media release will be prepared and issued through the Town's website and social media platforms.

Staff will work to update any associated MAT website materials (landing page, frequently asked questions, resources) to reflect the change for Short-Term Rental Operators and the upcoming transition from a 2% MAT to a 3% MAT, effective January 1, 2024.

11. CONCLUSION

The attached Municipal Accommodation Tax By-Law will take effect January 1, 2024, for all accommodations.

12. PREVIOUS REPORTS

- CS-22-019 – Municipal Accommodation Tax

13. APPENDICES

- **Appendix I** – MAT By-Law – To replace By-Law No. 5435-22
- **Appendix II** – Feedback from STAY Niagara-on-the-Lake (NOTL Bed and Breakfast Association)
- **Appendix III** – MAT By-Law – Red Lined Version

Respectfully submitted:

Prepared & Recommended by:

A handwritten signature in blue ink, appearing to read 'Freeborn'.

Kyle Freeborn, CPA, CMA
Director of Corporate Services/Treasurer

Submitted by:

A handwritten signature in black ink, appearing to read 'M. Cluckie'.

Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer