The Corporation of the
City of Sault Ste. Marie

COUNCIL REPORT

July 16, 2018

TO:	**Mayor Christian Provenzano and Members of City Council**
AUTHOR:	**Al Horsman, CAO**
DEPARTMENT:	**Chief Administrative Officer**
RE:	**Update – Municipal Transient Accommodation Tax**

PURPOSE

The purpose of this report is to provide an update on the Municipal Transient Accommodation Tax (MAT) and seek Council approval to implement the new tax at 4%, effective January 1, 2019. The report further recommends that Council will review and approve a revised MOU between the City and Sault Ste. Marie Economic Development Corporation (SSMEDC) prior to the tax proceeds being advanced including a provision for the short term accommodation owners having input on the use of the MAT funds. This revised MOU should include a reasonable accountability framework to ensure that amounts paid to the SSMEDC are used for the exclusive purpose of promoting tourism including development of tourism products.

BACKGROUND

In 2017, the Province of Ontario passed Bill 127, Stronger, Healthier, Ontario Act 2017 that among other things amended the Municipal Act, 2006 to provide municipalities with the legislative authority to levy a tax on transient accommodations of 30 days or less. Ontario Regulation 435/17 (https://www.ontario.ca/laws/regulation/170435) allows each Ontario municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the levy would apply to, tax rate to be applied and accountability agreements necessary to use the tax revenue proceeds for the promotion of tourism. Purchases that consist of accommodation that is not short-term in nature (i.e. 30 consecutive nights or longer) cannot be taxed.

Under the new regulation, all single-tier and lower-tier municipalities now have the authority to put a municipal accommodation tax in place. A transient accommodation tax is not a requirement for local municipalities—rather, municipalities have the flexibility to decide if they want to put the tax in place. Upper-tier municipalities (regional or county governments) do not have the authority to implement a tax. Transient accommodation at a university or college or affiliated post-secondary institution are exempt.

All municipalities that adopt an accommodation tax but also have an existing destination marketing fee (DMF) 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 DMF program in place prior to the new tax being implemented. In the case of a DMF that existed in the municipality in the past, and does exist in the municipality on the day before the tax comes into effect, the municipality would be required to share the net revenues from the tax with the non-profit tourism entity that managed the DMF as set out in the Regulation.

To be eligible to receive municipal accommodation tax revenue, the recipient entity must be a not-for-profit organization, whose mandate includes tourism promotion in Ontario or in a municipality. Revenue shared with an eligible tourism entity must be used for the exclusive purpose of promoting tourism. Tourism promotion includes the development of tourism products. The regulations also require a municipality and tourism entity to enter into an agreement that deals with reasonable financial accountability matters to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, but not that they be used in a particular manner.

ANALYSIS

Under O Reg. 435/17, the City of Sault Ste. Marie now has the authority to implement through by-law an accommodation tax for accommodations of 29 consecutive nights or less through the design of a program, establishment of the rate and the administration, collection and scope of application. An accommodation tax is not a requirement and it is possible to continue with other programs that are already in place such as the Destination Marketing Fee (DMF) maintained indirectly by the SSMEDC. A DMF tax can continue to be industry-led after the accommodation tax is implemented. There is no provincial or municipal involvement. However, the current hotels participating in the voluntary DMF for Sault Ste. Marie indicated they will discontinue the DMF effective with the introduction of the MAT.

In late 2017 and early 2018, staff at SSMEDC (including its subsidiary Tourism SSM) and the City conducted multi-lateral discussions to assess the implications of the new municipal tax for the DMF as well as scope how best to implement the tax (or not) recognizing the existing DMF collected indirectly by the SSMEDC through Tourism SSM and the local hotel industry. Considerations included who the existing DMF accommodation contributors were, how much they were paying, what the revenues were being applied to and who was administering the program and at what cost. Other considerations included how the City would collect and remit the new tax if the DMF was to be replaced, who would be levied (e.g. other short term properties, Airbnb's, etc.), the costs of administration (including levying and collecting the tax), eligible not-for-profit entities that could receive the tax revenues, accountability agreement terms necessary, use of previous unspent DMF revenues and promotional tourism activities to which the revenues would be applied.

Unaudited data provided respecting existing DMF fees collected indicate that in terms of hotel room capacity approximately 84% of the hoteliers participate in the voluntary DMF program that collects approximately $760,000 annually using a 3% fee. This funding has been collected by the participating hotels and remitted to the not-for-profit SSMEDC to fund a portion of the Tourism Sault Ste. Marie activities (a division of SSMEDC). Based on CBRE's National Market Report dated December, 2017 occupancy for rooms in Sault Ste. Marie is approximately 56%. Applying a new tax at 4% across all transient accommodations could realize as much as $1.25 M in annual revenue which is sufficient to provide the $760,000 revenue share to not-for-profit SSMEDC as required by the regulation and realize a further $475,000 for other activities aimed at promoting tourism. A 4% tax is supported by SSMEDC, Tourism Sault Ste. Marie, the accommodation DMF partners and City administration.

Many other municipalities have implemented the new tax or are in the process of implementing this levy. Some of these are summarized in Appendix A attached. As highlighted in Appendix A, there are some challenges in implementing the tax and in many cases municipalities continue to consult with key stakeholders regarding how revenues would be collected, administered and utilized. This is the case in Sault Ste. Marie where the existing DMF has long been collected by the participating local hotels and advanced to the SSMEDC. The financial statements of SSMEDC reflect this activity. To date, the association and Tourism SSM have applied these revenues to activities such as the Poker Run, Under 17 Hockey, WTF Festival, etc. and made annual contributions to a reserve to be utilized for future large scale tourism projects. The balance in this reserve as of December 31, 2017 is approximately $1.3 M and remains in the control of the DMF partners to allocate on tourism initiatives using criteria identified in the operations agreements with Tourism Sault Ste. Marie and SSMEDC.

Extensive discussions have been undertaken by staff and officials with the City, SSMEDC and the accommodation partners. Although the implications of the new tax for the DMF was a key discussion item, there was significant attention paid to how the funds would be used as well as governance over tourism promotion activities generally. It was very evident during these deliberations that the accommodation partners must have a significant input into the tourism activities related to the new MAT along with tourism efforts on the whole. A commitment was therefore made to ensure that the accommodation partners have a strong voice regarding expenditures related to MAT tourism promotion activities. In this vein, the City will work with the SSMEDC, Tourism Sault Ste. Marie and accommodation partners to structure the proposed amended City/SSMEDC MOU to include provisions for the accommodation partners input.

If this direction is approved, City staff will work with SSMEDC management to amend the current MOU to create an accountability agreement between the parties for spending of tax revenues. Council approval would be sought prior to allocation of the tax proceeds. Approval would also be sought from the SSMEDC Board while the hotel association and hotel industry as a whole will be consulted for input and must be included as a consultant to spending of the tax share.

FINANCIAL IMPLICATIONS

As shown in Table A below, based on the CBRE data of 56% occupancy with average daily rates of $108.31, total potential revenue from the MAT in 2019 would be $1.248 M. Adjusting for payments to SSMEDC to uphold the $760,000 DMF revenues per the new regulation, there remains $475,000 available for additional tourism promotion activities.

<u>Table A – MAT Annual Potential</u>

MAT Revenue 2019	$1,247,508
Less: Payment to SSMEDC Tourism	-$760,000
Less: Administration Costs (Collection and Audit – City	-$ 12,475
Net MAT Revenue	**$475,033**

STRATEGIC PLAN / POLICY IMPACT
This is an operational matter not articulated in the 2014-2018 Corporate Strategic Plan.

RECOMMENDATION
It is therefore recommended that Council take the following action:

That the Corporation of the City of Sault Ste. Marie implement a municipal transient accommodation tax effective January 1, 2019 consistent with the requirements prescribed under O Reg. 435/17 Transient Accommodation Tax;

That the City Chief Administrative Officer, SSMEDC Executive Director, City Chief Financial Officer and Deputy CAO Community Development and Enterprise Services develop the framework to administer and implement the tax; and

That the Advisory Committee report back for Council approval prior to actual allocation of the tax revenue in 2019 with a revised City/SSMEDC MOU to reflect the use of the tax revenue for promotion of tourism including product development; and,

That the revised City/SSMEDC MOU include a provision for affected short term accommodation stakeholders to have input on use of the funds to promote tourism.

Respectfully submitted,

Al Horsman

Al Horsman
Chief Administrative Officer
705.759.5347

Appendix A

Sample Municipalities Considering a Municipal Transient Accommodation Tax

Municipality	Current Status
City of Toronto	• Approved 4% tax (January 24, 2018) to replace Destination Marketing Fund (DMF) of 3% • Applied to all hotels; DMF only applied to participating hotels • Estimated revenue of $17.2 - $28.2 Million annually • Implementation targeted for June 1, 2018 • Accountability agreements still being negotiated with the Greater Toronto Hotel Association (GTHA) who will administer the tax
City of Mississauga	• Approved 4% tax (November 1, 2017) replacing DMF of 3% applied to only 2 hotels and administered by the GTHA • Estimated revenue of $9.8 Million annually • Implementation July 1, 2018 • Accountability agreements still being worked on • Staff recommended creation of a new not for profit entity to administer the program
City of Niagara Falls	• Endorsed a 4% tax rate • Estimated revenue is $15 Million annually • No DMF in place, but one did exist so revenue shared 50% with local Niagara Falls Tourism (NFT) not for profit entity • Tax to be applied to all short term accommodations including Airbnb
City of Markham	• Recommended a 4% tax (February 20, 2018) • No DMF in place so 50% to be provided to a Municipal Services Corporation to be reported on this year • Estimated annual revenue of $2.6 Million • Applied to all transient accommodations

City of Ottawa	• Endorsed a 4% tax (November 27, 2017) • Replaces voluntary DMF of 3% • Implemented January 1, 2018 • Accountability agreement still being forged
City Of Kingston	• Approved 4% tax (June 12, 2018) • Excludes Airbnb's • Applied to all accommodations • Estimated revenue up to $3 million annually • In 2016, a separate Tourism Board was created hiving off tourism from the Kingston EDC • Kingston Accommodation Partners (KAP) administers the tax that is shared with City 35% for tourism product development and 65% for tourism promotion by the Board
City of Sudbury	• Approved 4% effective September 1, 2018 • Applied to all transient accommodations • Estimated revenue of $1.7 Million annually • Accountability agreements still being worked on
City of North Bay	• Still assessing tax implication • City staff are working with Tourism North Bay to develop a proposal • Expect 4% being recommended for implementation in 2019
City of Thunder Bay	• Approved 4% (June 1, 2018) subject to report back on structure and implementation of program • No DMF in place so City will remit 50% to a Not Fr Profit entity • Estimated revenue of $2 Million annually • Applied to all accommodations of 29 consecutive days or less • Funds are incremental to existing tourism budget allocations
City of Timmins	• Has not reported to Council on this matter yet • Expect to recommend 4% when administration does report out