Agenda – Council – April 29, 2009

Report – Executive Policy Committee – April 8, 2009

Item No. 1 Amendments to Accommodation Tax By-law
eFile FL

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 8, 2009, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That the amending By-law (as outlined on Attachment A of the report from the Chief Financial Officer dated March 5, 2009) be enacted, which will amend the Accommodation Tax By-law No. 70/2008, as follows:

   A. All-inclusive vacation package – modified to exempt all elements from taxation except those normally associated with a room; definition changed to provide that a package that does not provide "meals, drinks and entertainment" still qualifies.

   B. Lodging – definition modified so that the tax will not apply to elements of a room package that the purchaser could choose not to purchase.

   C. Short-term accommodation – changed the number of nights for application of the tax from "30 nights or less" to "less than 30 nights" to align with PST and GST rules.

   D. Transition Measure – the transition period for application of refund extended from January 1, 2009 to January 1, 2010.

   E. Exemption for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health – an exemption has been added for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health, that is specifically provided for individuals, or their family members, who do not reside in Winnipeg and who are in Winnipeg to receive medical treatment.

   F. Allow for quarterly remittances – quarterly remittances permitted to those establishments where the accommodation tax remittances are of low dollar value.

2. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – April 8, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On April 8, 2009, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

RE: Amendments to Accommodation Tax By-law

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Mike Ruta, Chief Financial Officer

REPORT DATE: March 5, 2009

RECOMMENDATION:

1. That the attached amending By-law (Attachment A) be enacted which will amend the Accommodation Tax By-law No. 70/2008 as follows:

    - **All-inclusive vacation package** – modified to exempt all elements from taxation except those normally associated with a room; definition changed to provide that a package that does not provide "meals, drinks and entertainment" still qualifies.

    - **Lodging** – definition modified so that the tax will not apply to elements of a room package that the purchaser could choose not to purchase.

    - **Short-term accommodation** – changed the number of nights for application of the tax from "30 nights or less" to "less than 30 nights" to align with PST and GST rules.

    - **Transition Measure** – the transition period for application of refund extended from January 1, 2009 to January 1, 2010.

    - **Exemption for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health** – an exemption has been added for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health, that is specifically provided for individuals, or their family members, who do not reside in Winnipeg and who are in Winnipeg to receive medical treatment.

    - **Allow for quarterly remittances** – quarterly remittances permitted to those establishments where the accommodation tax remittances are of low dollar value.

2. That the proper officers of the City do all things necessary to implement the intent of the foregoing.

Report Summary

Key Issues:

- This report proposes some modest amendments to the Accommodation Tax By-law resulting from consultation with the Manitoba Hotel Association and its members over the months of May through November 2008. These changes will better fit the business practices of the accommodation industry, without detriment to the intent and spirit of the By-law.

- The proposed changes to the By-law are as follows:

    1. **All-inclusive vacation package** – modified the definition so that "meals, drinks and entertainment" are not required in order for the package to qualify as an "all-inclusive" package.

    2. **All-inclusive vacation package** – modified the exemption so that only the room will be subject to the accommodation tax rather than any elements of the package that are provided on the grounds of the hotel.

    3. **Lodging** – modified the definition so that only the room will be subject to the accommodation tax not elements of a room package that the purchaser could opt not to accept.

    4. **Short-term accommodation** – changed the number of nights for application of the tax to "less than 30 nights" to align with PST and GST rules.

    5. **Transition Measure** – the transition period for application of refund will be changed from a deadline of January 1, 2009 to January 1, 2010.

    6. **Exemption for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health** – an exemption has been added for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health, that is specifically provided for individuals, or their family members, who do not reside in Winnipeg and who are in Winnipeg to receive medical treatment.

    7. **Allow for quarterly remittances** – quarterly remittances permitted to those establishments where the accommodation tax remittances are of low dollar value.

Implications of the Recommendation(s):

General Implications

( ) None

(X) For the organization overall and/or for other departments

(X) For the community and/or organizations external to the City

( ) Involves a multi-year contract

Comment(s): The proposed By-law amendment will change some of the "rules" for application of the accommodation tax by accommodation providers in the city.

Policy Implications

(X) No

( ) Yes

Comment(s): The proposed amendments only involve small changes that will better fit the business practices of the accommodation industry, without changing the basic policy direction of the By-law.

Regulatory Implications

( ) None

(X) Eliminates or reduces regulatory impact

(X) Proposes regulatory impact

Comment(s): While relatively minor, the proposed By-law amendments will reduce regulatory impact by better accommodating the business practices of hoteliers and other accommodation providers in the city.

Environmental Implications

(X) No

( ) Yes

Comment(s):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

(X) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s): Any financial impact of the proposed amendments is likely to be insignificant.

Report

REASON FOR THE REPORT:

The changes proposed in this report require By-law amendments.

HISTORY:

On April 23, 2008, City Council passed the Accommodation Tax By-law No. 70/2008. The Lieutenant Governor in Council (Province of Manitoba) subsequently approved the By-law as announced on May 8, 2008.

The Accommodation Tax By-law was prepared in conjunction with the budget process for 2008-2010 and ultimate adoption on March 26, 2008.

DISCUSSION:

During the month of May 2008, members of the Public Service had consulted with the Manitoba Hotel Association and its members regarding the Accommodation Tax By-law and how it applies to the accommodation industry and their business practices. Members of the Association made several suggestions for changes to the By-law that would result in the By-law aligning better with the business practices of the accommodation industry. Further information was obtained regarding the application of the PST and GST on short-term accommodation. This led to a revision of the definition of short-term accommodation as noted below.

The Public Service had a follow-up consultation with the Manitoba Hotel Association in November 2008.

The amendments proposed in this Report reflect the suggestions and new information obtained over the first seven months of the accommodation tax being effective. The amendments provide for greater simplicity in administering the By-law without detriment to the intent and spirit of the By-law.

The proposed changes to the By-law are as follows:

1. **All-inclusive vacation package (definition)** – The existing definition is proposed to be changed so that “meals, drinks and entertainment” are not required in order for the package to qualify as an “all-inclusive” package.

2. **All-inclusive vacation package (exemption)** – Currently, the accommodation tax is not payable on any elements of an all-inclusive vacation package that take place off the grounds of the hotel. This was considered too broad. The proposed change will exempt all elements of an all-inclusive package except those normally associated with the purchase of a room or suite. The Taxation and Finance Division will be allowed to refer to the normal price of a room and the amenities that are normally included in that price in determining what portion of the package is subject to the tax.

3. **Lodging (definition)** – The existing definition is proposed to be changed so that elements of a package will be excluded from the tax if the purchaser has the option not to accept them and pay a lower price for the room alone. In other words, only the room and the amenities that always go with the room will be subject to the tax.

4. **Short-term accommodation** – the application of the tax will be changed so that the application of the tax will be "for a continuous period of less than 30 nights…" as opposed to the current "30 nights or less." Confirmation received from the Province of Manitoba and the Government of Canada for the PST and GST, respectively, indicates that both governments apply their respective tax at less than 30 nights for short-term accommodation (and therefore the exemption at 30 nights or more).

   It is important to note that the application of the tax has been administratively applied "for a continuous period of less than 30 nights…" since June 1, 2008 when the tax became effective. In other words, accommodation tax is exempt at 30 nights or more (and this has been applied since June 1, 2008).

5. **Transition measure** – the transition period will be changed from a deadline of January 1, 2009 to January 1, 2010, thereby allowing one additional year for an application for refund on eligible purchase agreements.

6. **Exemption for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health** – an exemption has been added for accommodation purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health, that is specifically provided for individuals, or their family members, who do not reside in Winnipeg and who are in Winnipeg to receive medical treatment.

   It is important to note that this is not an "exemption" per se, as accommodation for purposes of receiving medical treatment is an eligible refund. This exemption reduces "red tape" in that it eliminates the provincial or federal agency from paying the accommodation tax to an accommodation provider, then submitting a refund request to the City, and the City in turn processing a refund of the accommodation tax paid for purposes of medical treatment.

7. **Allow for quarterly remittances** – This has been added to provide administrative flexibility for those establishments where the accommodation tax remittances are of low dollar value (e.g. less than $100 per month). These establishments will be permitted to remit the accommodation taxes owing and applicable statement on a quarterly basis (four times per year) on the 20th of the month following the quarterly period.

Financial Impact Statement Date: January 23, 2009

Project Name:

Accommodation Tax

COMMENTS:

The five proposed changes outlined in this report provide for better alignment of the business practices of the accommodation industry, without detriment to the intent and spirit of the By-law. Any reduction in revenue from these changes is considered minimal. It is important to note that the intent of the By-law is to tax "accommodation" only i.e. the room only. The proposed changes accomplish this with better clarity and remove any opportunity for misinterpretation.

[original signed by]
Brad Cull, CA
Manager of Taxation and Finance
Assessment and Taxation Department

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Legal Services, Corporate Finance

External Consultation With:
Manitoba Hotel Association
Various individual hoteliers
Province of Manitoba, Manitoba Finance
Government of Canada, Canada Finance

THIS REPORT SUBMITTED BY:

Assessment and Taxation Department
Taxation and Finance Division
Prepared by: Brad Cull, Manager of Taxation and Finance
File No.

APPENDIX A

Amending By-law (draft)



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Accommodation Tax\I

THE CITY OF WINNIPEG

BY-LAW NO. _____

A By-law of THE CITY OF WINNIPEG to amend the Accommodation Tax By-law No. 70/2008.

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Accommodation Tax By-law amended

1 *The Accommodation Tax By-law No. 70/2008 is amended by this By-law.*

Definitions amended

2(1) *The definition of* **"all-inclusive vacation package"** *in section 2 is struck out and the following is substituted:*

"all-inclusive vacation package" means a vacation arrangement that, for a single price, includes:

(a) at least one night's lodging in Winnipeg; and

(b) round-trip transportation to or from Winnipeg and at least one other location;

2(2) *The definition of* **"lodging"** *in section 2 is amended by striking out clause (c) and substituting the following:*

(c) food, drink, entertainment, use of equipment or facilities, or other amenities and benefits to the extent that their inclusion in the purchase price of an item listed in clause (a) or (b) is not at the option of the purchaser;

2(3) *The definition of* **"time share arrangement"** *is amended by striking out* "more than 30 nights" *in clause (d) and substituting* "30 nights or more"*.*

Section 3 amended

3(1) *Subsection 3(1) is amended by striking out* "30 nights or less" *and substituting* "less than 30 nights"*.*

3(2) *Clause 3(3)(i) is struck out and the following is substituted:*

(i) that portion of the purchase price of an all-inclusive vacation package that is reasonably attributable to elements of the all-inclusive vacation package other than:

(i) the use of a bedroom, a suite of rooms containing a bedroom or the use of a bed within a bedroom; and

(ii) food, drink, entertainment, use of equipment or facilities, or other amenities and benefits that cannot be reasonably distinguished from an element listed in subclause (i);

3(3) The following is added after clause 3(3)(i):

(j) accommodation that is

(i) purchased by the Non-Insured Health Benefits Program of Health Canada, First Nations and Inuit Health; and

(ii) provided exclusively for individuals or their family members who do not reside in Winnipeg and who are in Winnipeg to receive medical treatment, to undergo testing at a hospital or Provincially-approved medical facility, or to seek medical advice or treatment from a medical specialist.

3(4) Subsection 3(4) is repealed and the following is substituted:

3(4) Where clause 3(3)(i) (all-inclusive vacation packages) applies, in determining the portion of the purchase price of an all-inclusive vacation package to which the accommodation tax applies, the tax collector may refer to the price that would be paid for similar lodging if purchased by a purchaser who had not purchased an all-inclusive vacation package.

Section 5 amended

4(1) Subsection 5(1) is amended by striking out "An operator" *at the beginning of the subsection and substituting* "Unless authorized by the tax collector under subsection (5) to do so on a quarterly basis, an operator".

4(2) Subsection 5(2) is amended by:

(a) striking out "An operator" *at the beginning of the subsection and substituting* "Unless authorized by the tax collector under subsection (5) to do so on a quarterly basis, an operator"; and

(b) striking out "monthly statement" *and substituting* "statement".

4(3) Subsection 5(3) is amended by striking out "a monthly statement" *and substituting* "the statement referred to in subsection (2)".

4(4) Subsection 5(4) is amended by

(a) striking out "monthly statement" *and substituting* "statement"*; and*

(b) *striking out* “the month in which the taxes were payable and for which the monthly statement is applicable” *and substituting* “the month or, where applicable, the quarter in which the taxes were payable and for which the statement is applicable”.

4(5) *The following is added after subsection 5(4):*

5(5) Notwithstanding subsections (1) and (2), in order to facilitate administration of this By-law, the tax collector may authorize an operator to remit quarterly the amounts referred to in subsection (1) and to submit quarterly the statement referred to in subsection (2).

Section 12 amended

5 *Section 12 is amended by striking out* “January 1, 2009” *and substituting* “January 1, 2010”.

DONE AND PASSED, this day of , 2009.

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Mayor

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City Clerk

Approved as to content:

_____
Deputy Chief Administrative
Officer/Chief Financial Officer

Approved as to form:

_____
City Solicitor/Manager of
Legal Services