Minutes - Executive Policy Committee - July 16, 2003

Report - Standing Committee on Fiscal Issues- July 8, 2003

Minute No. 305
Item No. 1 License in Lieu of Business Tax and Home-Based Businesses
File EL-1

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Committee on Fiscal Issues, as amended, and submits the following to Council:

1. That a new License In Lieu of Business Tax By-law be passed which retains the basic features of the current by-law (By-law No. 201/72) but reduces the current year fee to zero for a license in lieu of business tax for businesses that earned less than $5,000.00 in annual gross revenue in the previous year. A business would be entitled to this reduction if its owner:

   (a) completes a statutory declaration stating that the business did not generate more than $5,000.00 gross revenue in the preceding calendar year; and
   (b) signs a consent allowing the City to confirm this with the Canada Customs and Revenue Agency.

2. That the following minimum fines be imposed for failing to obtain a licence in lieu of business tax when required to do so:

   (a) for a first offence, to a minimum fine of at least the amount of the applicable annual licence fee;
   (b) for a second offence, to a minimum fine of at least double the value of the applicable licence fee; and
   (c) for a third or subsequent offence, to a minimum fine of at least triple the value of the applicable licence fee;

   to a maximum of $5,000.00.

3. That the following penalty be imposed for providing false information:

   (a) that a person who provides a false declaration or false information under this by-law is guilty of an offence and is subject to a minimum fine of $500.00 and a maximum fine of $5,000.00 or six months imprisonment or both a fine and imprisonment.

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4. That late payment fees be imposed, whereby a penalty of 5% of the total fee or $5.00, whichever is greater, is applicable for each month or portion of a month that a license fee remains unpaid.

5. That the license in lieu of business tax fee be reduced to zero for individuals who have a severe and prolonged mental or physical impairment which entitles him or her to receive the disability tax credit under the Income Tax Act (Canada) and Regulations.

6. That License in Lieu of Business Tax By-law No. 201/72 be repealed.

7. That Council approve the new Licence in Lieu of Business Tax By-law as set out in Appendix 2.

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DECISION MAKING HISTORY:

Moved by Councillor Clement,
That the recommendation of the Standing Committee on Fiscal Issues be amended by deleting the word "$2,500.00" in the third line of Recommendation 1. and the second line of 1. (a) and substituting therefore the word "$5,000.00" and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 8, 2003, the Standing Committee on Fiscal Issues concurred in the administrative recommendation and submitted the matter to Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

RE: License in Lieu of Business Tax and Home-Based Businesses

FOR SUBMISSION TO: **Standing Committee on Fiscal Issues**

ORIGINAL REPORT SIGNED BY: Ursula Stelman, Director
Community Services Department

REPORT DATE: **June 26, 2003**

RECOMMENDATION(S):

1. That a new License In Lieu of Business Tax By-law be passed which retains the basic features of the current by-law (By-law No. 201/72) but reduces the current year fee to zero for a license in lieu of business tax for businesses that earned less than $2,500 in annual gross revenue in the previous year. A business would be entitled to this reduction if its owner:

   (a) completes a statutory declaration stating that the business did not generate more than $2,500 gross revenue in the preceding calendar year; and
   (b) signs a consent allowing the City to confirm this with the Canada Customs and Revenue Agency.

2. That the following minimum fines be imposed for failing to obtain a licence in lieu of business tax when required to do so:
   (a) for a first offence, to a minimum fine of a least the amount of the applicable annual licence fee;
   (b) for a second offence, to a minimum fine of at least double the value of the applicable licence fee; and
   (c) for a third or subsequent offence, to a minimum fine of a least triple the value of the applicable licence fee;

   to a maximum of $5,000.

3. That the following penalty be imposed for providing false information:
   (a) that a person who provides a false declaration or false information under this by-law is guilty of an offence and is subject to a minimum fine of $500 and a maximum fine of $5000 or six months imprisonment or both a fine and imprisonment.

4. That late payment fees be imposed, whereby a penalty of 5% of the total fee or $5.00, whichever is greater, is applicable for each month or portion of a month that a license fee remains unpaid.

5. That the license in lieu of business tax fee be reduced to zero for individuals who have a severe and prolonged mental or physical impairment which entitles him or her to receive the disability tax credit under the Income Tax Act (Canada) and Regulations.

6. That License in Lieu of Business Tax By-law No. 201/72 be repealed.

7. That Council approve the new Licence in Lieu of Business Tax By-law as set out in Appendix 2.

REPORT SUMMARY:

Key Issues:

- Concern has arisen regarding the implementation of the current License In Lieu of Business Tax By-law No. 201/72.

- Concern centers on the fact that it may not be the intent of Council to charge license in lieu of business tax to those who are making limited revenues when pursuing their business interests.

- It is important that City policy recognize the legitimacy of home-based businesses and create a business-friendly environment where viable businesses operating from home can incubate and grow. Generally where local communities have continued to enhance their entrepreneurial climate, innovation and economic development have occurred.

- It is critical, however, that the License In Lieu of Business Tax By-law be structured in such a way that a level playing field exists for:
    a) Businesses operating out of commercial space and paying business tax; and
    b) Businesses that operate from a premise such as their home, where it is impractical to determine the annual rental value upon which to base business tax, or those who operate a business but do occupy a premise for the purpose of carrying on the business.

- In 1983, the Supreme Court of Canada determined that an activity could be classified as a “business” for the purpose of imposing business taxes when it is being carried on “for the preponderant purpose of earning a profit." This test has now been explicitly set out in the new City of Winnipeg Charter as the basis for the imposition of a license in lieu of business tax.

- This report recommends that a new License In Lieu of Business Tax By-law should be passed which retains the basic features of the current by-law (By-law No. 201/72) but reduces the current year fee to zero for a license in lieu of business tax, for businesses that earned less than $2500 in annual gross revenue in the previous year. A business would be entitled to this reduction if its owner:

    (a) completes a statutory declaration stating that the business did not generate more than $2500 gross revenue in the preceding calendar year; and
    (b) signs a consent allowing the City to confirm this with the Canada Customs and Revenue Agency.

Implications of the Recommendation(s):

General implications:

? **None**
X **For the organization overall &/or for other departments**
X **For the community and/or organizations external to the City**
? **Involves a multi-year contract**

Comment(s): It is important that City policy recognize the legitimacy of home-based businesses and create a business-friendly environment where viable businesses operating from home can incubate and grow. Generally where local communities have continued to enhance their entrepreneurial climate, innovation and economic development have occurred.

Policy implications:

? **No**
X **Yes**

Comment(s): The City of Winnipeg Charter currently requires that the City impose a business tax. This business tax must be based on the annual rental value of the premises. Where it is not practical to determine the annual rental value (for example, in the case of home-based businesses), or where a business is not being operated from premises in the City (when there is no particular base of operations or when the premises are located outside the City), the City may impose a license in lieu of business tax. However, there is no obligation on the City to impose a license in lieu of business tax.

Activities that are conducted "for the preponderant purpose of earning a profit" are subject to either a business tax or, assuming the City wishes to impose it, a licence in lieu of business tax. Activities that are not conducted "for the preponderant purpose of earning a profit" are not subject to either a business tax or a licence in lieu of business tax.

The recommendation in this report is based on the principle of equity among all businesses; however it provides some latitude for very small business operators who generate minimal annual gross revenues.

Environmental implications:

X **No**
? **Yes**
Comment(s):

Human Resources implications:

X **No**
? **Yes**
Comment(s):

Financial implications:

? **Within approved current and/or capital budget**
X **Current and/or capital budget adjustment required**

Comment(s):

Expenditures - In 2003, the Community Services Department's License Branch has budgeted expenditures of $242,207 associated with the administration of the License In Lieu of Business Tax By-law.

Revenues – In 2002, the License Branch generated revenue of $899,371 through license in lieu of Business Tax. The revenue budget for 2003 is $1,200,000. Since 1999, when efforts were increased to more effectively collect license in lieu of business tax fees, annual revenues have risen from $438,210 to 899,371 representing a 105% increase. Despite these proactive efforts, the License Branch has not been able to meet the existing budget targets.

The reduction recommended within this report will have further impacts on the Branch's ability to meet its 2003 budget target of $1.2 million.

If implemented, it is projected that annual actual revenues may decrease by $50,000 based on the following:
(a) It is anticipated that only a small number of home-based businesses currently paying license-in-lieu of business tax have gross annual revenues of less than $2,500, therefore this budget impact is expected to be minimal.

(b) Because the reduction is based on the previous year's annual gross revenues, **all brand new home-based businesses** will have their license-in-lieu of business tax fee reduced to zero in their first year of operation. Due to the fact that they were not in business the previous year, they therefore had no gross revenue. Most

businesses, however, when coming to the attention of the License Branch have already been in business for at least one year and therefore have gross revenues from the previous year(s); therefore it is expected that the number of brand new businesses impacted by this reduction will not be excessive (approximately 350-400 licenses).
In the 2004 budget and ongoing years, annual revenue targets may need to be adjusted downward to reflect this loss in revenue.

In 2003, initial costs of $7,000 not contained within the current budget, will be required in order to carry out a mailing to the 7,000 known home-based businesses in order to notify them of this new opportunity. An additional appropriation will be submitted at year-end if the Department is unable to accommodate these costs within the existing budget.

REASON FOR THE REPORT:

At the February 4, 2002 meeting of the Standing Policy Committee on Fiscal Issues, the Committee directed:

> That the Administration review the criteria surrounding home occupancy, licensing matters and licenses in lieu of business tax, including options and practices of other jurisdictions, for report to the Standing Policy Committee on Property and Development and the Standing Committee on Fiscal Issues.

HISTORY:

The current License in Lieu of Business Tax By-law has been in effect since January 1, 1973. It replaced similar by-laws in several municipalities that were amalgamated to form the City of Winnipeg.

The By-law imposes a revenue-generating license that has been explicitly permitted by The City of Winnipeg Act and the new City of Winnipeg Charter.

The current By-law requires that license in lieu of business tax be paid when businesses: (a) occupy premises that are difficult or impossible to assess for business tax purposes; or
(b) do not occupy any premises at all; or
(c) occupy premises located outside of the City.

In 1983, the Supreme Court of Canada determined that an activity could be classified as a “business” for the purpose of imposing business taxes when it is being carried on “for the preponderant purpose of earning a profit." This test has now been explicitly set out in the new City of Winnipeg Charter as the basis for the imposition of a license in lieu of business tax.

Since 1972, the annual fees for license in lieu of business tax have been set as follows:

Year	License Fee	% increase
1972 – 1991	$ 60.00	
1992	$100.00	66.6%
1993	$100.00	00.0%
1994	$105.00	05.0%
1995	$120.00	14.3%
1996	$125.00	04.2%
1997	$135.00	08.0%
1998	$135.00	00.0%
1999	$135.00	00.0%
2000	$135.00	00.0%
2001	$135.00	00.0%
2002	$135.00	00.0%

Since December 15, 1993, the annual fee for licenses in lieu of business tax has been based on the annual rental value of the maximum space allowed by a zoning permit for a home-based business (400 square feet). The goal of this policy is to ensure that the license in lieu of business tax fee is similar to the business tax that would be levied if all of the area in the home that may be used for business purposes were assessed for business tax.

Approximately ten (10) home-based businesses currently take advantage of a reduced annual fee of $13 for persons registered with a qualified organization for the physically handicapped or disabled.

Licenses in lieu of business tax currently generate approximately $900,000 in revenue for the City annually.

In addition to the license in lieu of business tax, home-based businesses are required:

- to comply with zoning regulations with respect to home occupations and to pay a one-time fee of $111.87 to have their home zoned for business purposes. The Home Occupation Permit ensures that home-based businesses operate within established zoning guidelines, thereby protecting the integrity of residential neighbourhoods; and

- to obtain and pay for such regulatory licenses as may be required for the business in question in the same way as if the business were based in business premises. For example, in the case of Direct Sellers who are conducting door-to-door sales, they are also required to obtain a Canvasser License at a cost of $65 annually. In the case of Beauty Salon with clientele coming to the home, they are also required to obtain a Beauty Salon License at a cost of $100 annually.

It is important to draw a distinction between licenses in lieu of business tax and regulatory licenses. Regulatory licenses are required in order to practice some profession, occupation, trade

or calling. These sorts of licenses are a regulatory tool to ensure that these businesses are operated in a safe manner that is in the public interest. Regulatory licenses are typically imposed through the License By-law.

In contrast to regulatory licenses, a license in lieu of business tax is not a "license" (in the common sense of the term) at all. It is rather a fee that is charged instead of a business tax.

Over the past few years, it was recognized that many home-based businesses within Winnipeg were operating without paying the required license in lieu of business tax fees. Therefore, in 2001 the License Branch received resources that enabled more attention to be paid to the enforcement of the Licensing By-law and the License in Lieu of Business Tax By-law for home-based business. Where a home-based business was found to be operating without having secured the necessary zoning permit, enforcement under the Zoning By-law is also carried out.

DISCUSSION:

- Background

Home occupations cover a wide range of businesses and include:

- direct sales such as Arts & Crafts, Cosmetics, Household goods;
- business services such as Market/Sales, Consultants, Desk Top Publishing;
- an office base for off-site work such as Plumbers and Electricians or Wholesaling and Retailing;
- professional services such as Accountants, Doctors, Lawyers or Engineers;
- personal services such as Child Day Care, Massage Therapists, Aestheticians, Piano Teacher, Photographer, Funeral Director.

Recently, there has been a significant growth in home-based businesses. This increase has been stimulated by a number of societal changes, including technological advances, unemployment and a shift in demographics and social trends. Points of interest include:

- It is estimated that between 600,000 and two million Canadians – up to one-quarter of the working population – do some or all of their paid labour at home.
- Over ten percent of all homes engage in some level of business operation.
- The latest Census reveals that 4.3% of Canadian workers work out of their homes.
- Studies indicate that the number of home-based businesses is increasing.
- The trend toward employees working from their homes (telecommuting) is also increasing. In many cases large organizations are opting for fewer employees in the traditional sense and more contracting out to individuals resulting in less office space being required. In this way, organizations reduce their costs for office space, heating, telephones and property and business tax.

The home has always been the testing ground for new businesses, and to that extent technological advancements have allowed a new class of "home-preneur". It has become an effective basis for economic development. It is important that City policy recognize the legitimacy of home-based businesses and create a business-friendly environment where viable businesses operating from home can incubate and grow. Generally where local communities have continued to enhance their entrepreneurial climate, innovation and economic development have occurred.

The growth in home-based businesses means that their regulation has become more important. These regulations ensure that home-based and commercial businesses operate on a "level playing field".

- Cross-Canada Jurisdictional Survey

Thirteen jurisdictions across Canada, including three Manitoba cities, were studied with respect to the range of models used to regulate and tax/license home based businesses. The general findings are presented below. Appendix 1 contains detailed information for each city.

<u>General findings</u>

- All thirteen jurisdictions collect some type of fee from home based businesses. These fees may take the form of an actual business tax, a license in lieu of business tax, or a business license.

- All thirteen jurisdictions have home occupancy requirements (zoning approval).

- Ten jurisdictions including Winnipeg require home based business operators to obtain separate home based business licenses and regulatory (trade) licenses.
    - Three jurisdictions issue business licenses only and therefore, separate regulatory (trade) licenses are not required. However, in these three jurisdictions it is possible that a home based business operator is required to purchase more business licenses than operators purchasing business licenses and regulatory (trade) licenses in other jurisdictions.

- Home based business license fees range from $70 (renewal fee) to $460. The average license fee for the seven jurisdictions who issue business licenses to home based business operators is $145. Winnipeg's license-in-lieu of business tax fee is $135.

- Fees for the five jurisdictions that impose business taxes vary considerably. These jurisdictions do not use a set fee for each home based business. Alternatively, these jurisdictions have developed assessment formulas that are based on various criteria and multipliers such as square feet used, different business categories, etc.

- In all jurisdictions, home based business fees apply to all types of businesses. A few exemptions exist in situations such as: the space used within the home for business is also used for personal use; the business is being operated by a student under the age of 21 years; registered non-profit organizations; and those earning less than $2,500.

- Legislative Requirements

The Charter requires that the City impose a business tax based on the annual rental value of the premises occupied or used by the business. The Charter permits – but does not require - the City to impose a license in lieu of business tax on businesses that do not pay a business tax either because they:

(a) occupy premises that are difficult or impossible to assess for business tax purposes; or
(b) do not occupy any premises at all; or
(c) occupy premises located outside of the City.

Home-based businesses fall within this last category. The policy goal for imposing licenses in lieu is to reduce the disparity that would otherwise exist between businesses that occupy business premises and are therefore subject to the business tax and those that either do not occupy space or occupy space where it is impractical to determine the annual rental value upon which to base business tax.

- Determining when a "business" is carried on for the preponderant purpose of earning a profit

In 1983, the Supreme Court of Canada determined that an activity could be classified as a "business" for the purpose of imposing business taxes when it is being carried on "for the preponderant purpose of earning a profit". It is often difficult to determine whether a home-based activity is a "business" to which a license in lieu applies or is a non-commercial pursuit, such as a hobby. However, the test set out in the Charter is straightforward: where an activity is conducted "for the preponderant purpose of earning a profit" it is subject to a license in lieu of business tax.

Applying this test remains difficult. For one thing, it is a *subjective* test, requiring an assessment of the goal or purpose of the person carrying on the activity. In this respect, it is more difficult to apply than the *objective* test to be applied for income tax purposes: whether there is a "reasonable expectation of profit" associated with the activity. In addition, where an activity is carried on for several reasons, it is necessary to determine whether the "preponderant" purpose for engaging in the activity is to make a profit.

While the test is subjective, there are objective facts that provide some indication of the purpose of the person carrying on the activity. For example, the extent to which the person has been making a profit and the size of the profit provide a clue. Similarly, the aggressiveness with

which the person advertises or markets his or her goods or services may indicate his or her preponderant purpose for carrying on the activity.

New administrative guidelines will be developed with the advice of City of Winnipeg Legal Services, to assist staff in better determining when someone is in business for the preponderant purpose of making a profit and thereby is required to pay license in lieu of business tax.

- **Implications of providing a reduction to low-revenue businesses**

This report recommends that businesses that did not generate at least $2500 gross revenue in the preceding taxation year be eligible for a reduction of their current year licence in lieu of business tax to zero. There are both benefits and disadvantages associated with this recommendation:

Benefits

This reduction encourages the development of small businesses.

This reduction supports policy statements articulated within Plan Winnipeg 2020 Vision such as Article 2C-02 *Facilitating opportunities for Business Growth in Winnipeg:* i) implementing a support system which acknowledges the special needs of new, small, existing, and growing businesses.

Policy concerns are minimized related to taxation of very small home-based businesses that earn minimal annual gross revenues.

As the reduction is limited, a more-or-less level playing field is maintained for businesses that are assessed a business tax within Winnipeg.

Cons

License In Lieu of Business Tax annual actual revenues will decrease by a projected amount of $50,000.

(a) It is anticipated that only a small number of home-based businesses currently paying license-in-lieu of business tax have gross annual revenues of less than $2,500, therefore the budget impact is expected to be minimal.

(b) Because the reduction is based on the previous year's annual gross revenues, **all brand new home-based businesses** will have their license-in-lieu of business tax fee reduced to zero in their first year of operation, as they had no revenue in the preceding year. Most businesses, however, when coming to the attention of the License Branch have already been in business for at least one year and therefore have gross revenues from the previous year(s); therefore it is expected that the number of brand new businesses impacted by this reduction will not be excessive (approximately 350-400).

The annual assessment and monitoring processes for businesses that are applying for a reduction, will result in an increased demand on administrative resources dedicated to the collection of license in lieu of business tax. This impacts the License Branch's ability to concentrate time on the identification of businesses that should be paying license in lieu of business tax.

In 2003, initial costs of $7,000 not contained within the current budget, will be required in order to carry out a mailing to the 7,000 known home-based businesses in order to notify them of this new opportunity. An additional appropriation will be submitted at year-end if the Department is unable to accommodate these costs within the existing budget.

Financial Impact Statement

Date: June 6, 2003

Project Name: Reduction in License in Lieu fee

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Total Additional Debt Required	$ -	$ -	$ -	$ -	$ -
Current Expenditures/Revenues					
Direct Costs	$ 7,000	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	(50,000)	(50,000)	(50,000)	(50,000)
Net Cost/(Benefit)	$ 7,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000
Less: Existing Budget Amounts		-	-	-	-
Net Budget Adjustment Required	$ 7,000	$ 50,000	$ 50,000	$ 50,000	$ 50,000

One time mailing costs of $7,000 in 2003 are not budgeted. If these costs are not absorbed an additional appropriation will be required. It is expected that the reduction in the license fee to NIL will result in approximately $50,000 in less revenue collected annually (approximately 350-400 licenses waived annually - from filling out a statutory declaration and signing the CCRA Consent form). This additional revenue shortfall further exacerbates the revenue shortfall currently experienced in the License in Lieu of Business Tax budget.

C. Wightman, Manager

APPENDIX 1

Home Based Businesses Jurisdictional Comparative

Exhibit 1.0 illustrates a home based business jurisdictional comparative of 13 Canadian cities including Winnipeg. The chart identifies which cities require permit, license-in-lieu of business taxes, license fees, business taxes, or trade licenses to operate a home based business. Also and where possible, associated fees have been presented. The chart also identifies the types of home based businesses that are required to meet these licensing and tax requirements. Businesses that are exempt from these requirements are also illustrated.

City	Requirements for Home Based Businesses	Fees	Types of Home Based Businesses Required to Comply with Business License/Business Tax Requirements	Home Base Businesses Exempt from Business License/ Business ax Requirements
Winnipeg	Home Occupancy Permit License in Lieu of Business Tax Regulatory (Trade) License	yes $135.00 $13.00 handicapped -varies based on trade and some trades do not pay a regulatory fee	Applies to all home-based businesses.	No exemptions
Brandon	Home Occupancy Permit Home Based Business License Regulatory (Trade) License	yes $130.00 $65.00 direct seller -varies based on trade and some trades do not pay a regulatory fee	Applies to all home-based businesses.	No exemptions
Calgary	Home Occupancy Permit Business Tax Regulatory (Trade) License may be required	yes -based on square footage used, multiplied by $5.00 times the uniform tax rate of 8.96% -does not apply to space used for personal use -varies based on trade and some trades do not pay a regulatory fee	Applies to all home-based businesses	Does not apply if space is used for personal use. -currently under review

Edmonton	Home Occupancy Permit Business Tax Regulatory (Trade) License may be required	yes -based on square footage -minimum $140.00	Applies to all home-based businesses	Registered Non-profit Organizations are exempt. Administrative exemption to direct sellers if the company maintains warehouse in City.
Halifax	Home Occupancy Permit Business Occupancy Tax Regulatory (Trade) License may be required	yes assessed commercial tax on portion of home used for business.	Applies to all home-based businesses	Does not apply if space is used for personal use.
London	Home Occupancy Permit Commercial Tax Regulatory (Trade) License may be required	yes Assessment Act allows for HBB to be taxed at full commercial rate based on area used -based on the assessed value of a home and prorated	Applies to all home-based businesses	Does not apply if space is used for personal use.
Regina	Home Occupancy Permit Home Based Business License Regulatory (Trade) License may be required	yes $180 - $460	Applies to all home-based businesses	Threshold of $2500 per annum.
Saskatoon	Home Occupancy Permit Business License Regulatory (Trade) License may be required	yes $95 new application $70 renewal	Applies to all home-based businesses	No exemptions

Selkirk	Home Occupancy Permit Business License	yes $100.00	Applies to all home based businesses	No exemptions
Toronto	Home Occupancy Permit Commercial Tax Regulatory (Trade) License may be required	yes Assessment Act allows for HBB to be taxed at full commercial rate based on area used -based on the assessed value of a home and prorated -residential Rate (1.1%) -commercial Rate (5.3%) -varies based on trade and some trades do not pay a regulatory fee	Applies to all home based businesses	Does not apply if space is used for personal use.
Vancouver	Home Occupancy Permit Business License	yes -varies based on trade Minimum fee $97.00 Exception Home Craft $57.00	by-law requires every home based business to be licensed.	Registered Non-profit Organizations are $10.00
Victoria	Home Occupancy Permit Business License	yes $100.00	every home based business must be licensed. One transaction constitutes a business.	Registered Non-profit Organizations are exempt
Yellowknife	Home Occupancy Permit Business License Regulatory (Trade) License may be required	yes $200.00 -varies based on trade and some trades do not pay a regulatory fee	by-law requires every home based business to be licensed	Students with ID under age 21 and Registered Non-profit Organization are exempt

APPENDIX 2

THE CITY OF WINNIPEG

BY-LAW NO. 122/2003

A By-law of the City of Winnipeg to impose a licence in lieu of business tax on certain businesses.

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

Short title

1 This By-law shall be referred to as the "Licence in Lieu of Business Tax By-law".

Licence in lieu of business tax imposed

2(1) Every person who, in carrying on a business for the preponderant purpose of earning a profit

(a) occupies premises for which the City Assessor finds it impractical to determine the annual rental value; or

(b) does not occupy premises for the purpose of carrying on the business

must obtain a licence in lieu of business tax from the City for each year or portion of each year in which the person carries on the business and, subject to the provisions of this By-law, must pay a fee for the licence as set out in this By-law.

Scope of licence in lieu clarified

2(2) Notwithstanding subsection (1), no person is required to obtain a licence in lieu of business tax in any year

(a) for any premises in respect of which a business assessment has been made; or

(b) for any business that is exempt from business assessment.

Fee for licence in lieu of business tax

3(1) Subject to the provisions of this By-law, the fee for a licence in lieu of business tax is $135.00 for a calendar year.

Partial year payment

3(2) Where a licence in lieu of business tax becomes required or ceases to be required during the course of a calendar year, the fee payable shall be proportionately reduced by the number of complete months for which it is not required.

No fee payable

4 Notwithstanding any other provision of this By-law, no licence fee for the current year is payable in respect of a business by a person to whom subsection 2(1) otherwise applies if that person provides to the Chief Licence Inspector

(a) a duly executed declaration in the form set out as Schedule "A" to this By-law declaring that

(i) the person is an individual who has a severe and prolonged mental or physical impairment which entitles him or her to receive the disability credit under The Income Tax Act (Canada) and Regulations; or

(ii) the business to which section 2 would otherwise apply earned less than $2500.00 in gross revenue for the preceding calendar year; and

(b) a written consent authorizing the Canada Customs and Revenue Agency to release information to the City or its employees sufficient to confirm the statements contained in the declaration.

Licence fee payable on January 1

5(1) A licence fee under this By-law is due and owing on January 1 of each year or, where a licence in lieu of business tax becomes required during the course of a calendar year, on the date that it becomes required.

Penalty for late payment

5(2) Interest at the rate of 5% of the total fee or $5.00, whichever is greater, shall be added as a penalty for each month or portion of a month that a licence fee remains unpaid.

Penalty for failing to obtain licence

6(1) In addition to any penalty imposed under subsection 5(2), a person who fails to obtain a licence as required by this By-law is guilty of an offence and liable on summary conviction to the following penalties:

(a) for a first offence, to a minimum fine of at least the amount of the applicable annual licence fee;

(b) for a second offence, to a minimum fine of at least double the amount of the applicable licence fee; and

(b) for a third or subsequent offence, to a minimum fine of at least triple the amount of the applicable licence fee;

to a maximum of $5000.00.

Penalty for providing false information

6(2) **A person who provides a false declaration or false information under this By-law is guilty of an offence and is subject to a minimum fine of $500.00 and a maximum fine of $5000.00 or six months imprisonment or both a fine and imprisonment.**

Repeal of By-law No. 201/72

7 **The Licence in Lieu of Business Tax By-law No. 201/72 is repealed.**

Transition

8 **Notwithstanding section 7, a licence obtained in compliance with the Licence in Lieu of Business Tax By-law No. 201/72 remains valid until its expiration date.**

Transitional refund

9 **A licence fee shall be refunded to a person who**

(a) obtained a licence in compliance with the Licence in Lieu of Business Tax By-law No. 201/72 for the year 2003;

(b) qualifies under section 4 to pay no fee for 2003; and

(c) has applied for the refund prior to December 31, 2003.

Administration and enforcement

10 The Chief Licence Inspector of the City of Winnipeg and his or her delegates are authorized to administer and enforce this By-law and, for those purposes, have the powers of a "designated employee" under The City of Winnipeg Charter.

Coming into force

11 **This By-law is effective as of January 1, 2003.**

DONE AND PASSED, in Council assembled, this 25th day of June, 2003.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Community Services

Certified as to form:

_____
for City Solicitor/Manager of
Legal Services

SCHEDULE "A"

STATUTORY DECLARATION

IN THE MATTER OF
THE LICENCE IN LIEU OF BUSINESS TAX
BY-LAW NO. 122/2003

I,_____(provide full name),
of _____ (address)
in the _____ (city or town) in the Province of Manitoba,

MAKE OATH AND SAY AS FOLLOWS:

In the year 20___ I (was / will be) engaged in business for the preponderant purpose of earning a profit and

☐ I have a severe and prolonged mental or physical impairment which entitles me to receive the Disability Credit under The Income Tax Act (Canada) and Regulations; **or**

☐ in the previous year, 20_____, gross (total) revenues from the aforesaid business did not exceed $2500.

I understand that, if this information should be false, I may be subject to prosecution for an offence under the Licence in Lieu of Business Tax By-law as well as a criminal offence under the *Criminal Code*.

Sworn or affirmed before me this _____ day)
of _____ in the year 20___ in the)
City of Winnipeg in the Province of Manitoba.)
)
)
_____)
A (Commissioner of Oaths / Notary Public)
in and for the Province of Manitoba. My
commission expires on
_____.

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH, AND CONCURRENCY BY:

- **City of Winnipeg Legal Services Division**

THIS REPORT SUBMITTED BY:

Community Services Department
Prepared by: Kelly Goldstrand, Manager
Community Resource, Protection & Safety Services
File No.