

---

**SUBJECT:** Municipal Accommodation Tax

**FROM:** Teresa Shearer, Treasurer

**DATE:** April 15, 2019

---

**RECOMMENDATION:**

That Council receives Treasurer's Report TR19-14 as information regarding the authority to implement a Municipal Accommodation Tax for short-term rentals.

**BACKGROUND:**

In 2017, the Province of Ontario issued the Transient Accommodation Regulation 435/17, which came into force December 1, 2017 and provides the necessary provisions for municipalities across Ontario to implement a Municipal Accommodation Tax (MAT). The option to tax short-term accommodation gives municipalities a potential source of revenue to support the costs associated with increased tourism. The Province hopes to encourage municipalities and tourism organizations to work together to promote tourism in their area. The MAT can be used to further investment in tourism by expanding on existing projects, supporting new initiatives, and funding improvements to local infrastructure.

Under this legislation, each municipality can choose whether or not they want to impose a Municipal Accommodation Tax (MAT). If they choose to implement a tax, municipalities will have the flexibility to decide on the design of the tax. This includes determining the tax rate to be charged and deciding on the scope of the application.

The regulations do not define transient accommodation. The legislation allows municipalities to decide on the types of short-term accommodation that will be subject to the tax. The MAT could apply to any place an accommodation is rented for a fee, including hotels, motels, lodges, resorts, bed and breakfasts, and daily or weekly private house rentals. Only accommodation fees may be taxed. Other fees and charges that are not related to accommodation will not be subject to a MAT.

The Province did not provide for the percentage rate for the accommodation tax. Municipalities have the flexibility to determine the rate. Many municipalities have adopted a 4% MAT which is subject to 13% HST.

The legislation provides that the municipality will share at least 50% of the revenues from the tax, less the municipality's reasonable costs for collection and administration, with one or more eligible not-for-profit tourism organizations. The amounts paid to an eligible tourism

entity must be used for the exclusive purpose of promoting tourism. The municipality must enter into an agreement with the tourism organization(s) to ensure compliance with the legislation.

**COMMENTS:**

The Municipal Accommodation Tax has been implemented in several municipalities and has been met with mixed reactions. While the tax provides an additional source of revenue to assist with the growing tourism industry, it also requires businesses to add an additional fee to their accommodations. Some critics of the program feel that this added cost is actually detrimental to the promotion of tourism.

**ATTACHMENTS:**

1. Municipal Accommodation Tax (FAQs) provided by the Tourism Industry Association of Ontario on their website [www.tiaontario.ca](http://www.tiaontario.ca)

**BUDGET IMPLICATIONS:**

The implementation of a Municipal Accommodation Tax could provide a source of revenue to promote tourism and finance the costs associated with increased tourism in Northern Bruce Peninsula.

**MUNICIPAL STRATEGIC COMMITMENT:**

By evaluating strategic objectives, it can be assured that the actions taken by the Municipality create value across all strategic priorities identified in the Strategic Plan. In doing so, the Municipality moves closer to its vision of providing a safe, progressive municipality that is committed to managing growth and providing a welcoming, diverse and environmentally sustainable community that enhances the quality of life for all residents and visitors.

Strategic Priority	Yes	No
Well managed and fiscally responsible municipal government is enhanced	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Conservation and protection of unique natural environment including the encouragement of well managed growth is enhanced	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Health, safety and education of the community are enhanced.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development/promotion of cultural and recreational opportunities is enhanced.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Citizen involvement is enhanced.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Economic development strategies are enhanced.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the option(s) recommended create value across all strategic priorities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the option(s) recommended make Northern Bruce Peninsula a municipality of choice for high performance public servants?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Respectfully submitted:

Approved by:

  
Teresa Shearer, Treasurer

  
Bill Jones, Chief Administrative Officer

# Municipal Accommodation Tax (FAQs)



TIAO is supporting its membership in navigating new regulations regarding Municipal Accommodation Tax (MAT). Below are questions we've collected from industry regarding MAT, with answers provided by the Ministry of Tourism, Culture and Sport. We will be updating this section with additional Q&As as more information becomes available.

## 1. Question: For the purpose of these regulations, what is the definition of “transient accommodation”?

- Are transient campsites and boatslips to be captured in the definition?
- In hotel vernacular, “transient” captures all bookings for less than 10 rooms (leisure travel, business travel, etc.); “group” captures all bookings for 10 rooms or more (sport groups, conferences/conventions, in-bound groups, etc.) — does the MAT apply only to the “transient” bookings, or to the room rate on all bookings, including the “group” business? (Not for extended stay, only on rooms booked for less than 30 consecutive days in the same room)

The transient accommodation tax regulations under the *Municipal Act, 2001* and the *City of Toronto Act, 2006* do not define transient accommodation.

The transient accommodation tax authority allows each municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the tax would apply to. However, purchases that do not consist of accommodation cannot be taxed. Purchases that consist of accommodation that is not short-term in nature cannot be taxed.

Municipalities that have questions about the requirements of the legislation or regulations should discuss them with their legal counsel.

## 2. Question: How is a DMO defined under the new regulations?

The regulations do not provide a definition for a “Destination Marketing Organization (DMO).”

The transient accommodation tax regulation under the *City of Toronto Act, 2006* requires the City of Toronto to share a portion of their revenues from the tax, if they choose to implement a transient accommodation tax, with Tourism Toronto.

The transient accommodation tax under the *Municipal Act, 2001* requires municipalities that choose to implement a transient accommodation tax to share a portion of their revenues from the tax with an “eligible tourism entity.” Depending on the circumstances, this may be a Destination Marketing

Organization, Regional Tourism Organization, or other not-for-profit tourism organization. The amount to be shared, and with whom, would depend on whether or not there is an existing destination marketing program in the community.

### **3. Question: Which levels of government can implement a Municipal Accommodation Tax?**

All single-tier and lower-tier municipalities have the authority to put a municipal accommodation tax in place. A transient accommodation tax is not a requirement for local municipalities—rather, they 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.

### **4. Question: What are the specific tiers with regards to municipalities?**

Please refer to the *Municipal Act, 2001*, s. 1(1) (<https://www.ontario.ca/laws/statute/01m25>) for definitions relating to various types of municipalities.

### **5. Question: Can regional municipalities collect tax on behalf of lower-tier municipalities?**

Yes. Local municipalities that choose to impose a transient accommodation tax could reach an agreement with a person or entity to collect the tax on a municipality's behalf and this could include a regional municipality. It is up to the discretion of the local municipality's council to design the transient accommodation tax.

### **6. Question: Is there a recommended percentage rate for a Municipal Accommodation Tax?**

No. Should a municipality choose to implement a transient accommodation tax, it has the flexibility to determine the design of the tax, including the tax rate.

## **7. Question: Will a Municipal Accommodation Tax apply to short-term rentals such as Airbnb?**

The answer depends on decisions about the design of the tax made by the municipality's council.

The transient accommodation tax authority allows each municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the tax would apply to. The tax can only apply to accommodation that is short-term in nature. That means a local municipality could apply the tax to hotel accommodation only, or it could choose to apply the tax to other types of short-term accommodation, including transient accommodation offered through services such as Airbnb, or other accommodation that is short-term in nature. Please note that short-term accommodations at universities and colleges cannot be taxed under a municipal accommodation tax.

## **8. Question: Are hotel amenity fees and service charges applicable under a Municipal Accommodation Tax (i.e. does the tax apply to the room rate only)?**

The answer depends on the nature of the fees or charges and decisions about the design of the tax made by the municipality's council.

The transient accommodation tax authority allows each municipality that chooses to implement a transient accommodation tax to determine the types of short-term accommodation the tax would apply to. The transient accommodation tax authority does not extend to incidental fees and charges unrelated to the purchase of accommodation. For example, the purchase of a meal in a hotel restaurant could not be considered transient accommodation and therefore could not be made subject to a municipal accommodation tax.

## **9. Question: If municipalities don't want to implement a Municipal Accommodation Tax, can a DMP/DMF continue on as previous to the new regulations?**

Yes.

Decisions about whether to implement destination marketing programs continue to be industry-led. There is no provincial involvement. These fees are entirely a private-sector initiative. However, some tourism leaders have indicated that if a transient accommodation tax is in place, they will terminate their destination marketing programs due to competitiveness reasons.

When exploring either option, municipal and tourism partners may wish to consider all factors that will ensure their regions remain competitive tourism destinations. We encourage municipalities to work together with their tourism partners and to consider potential impacts on the tourism industry and consumers when making decisions about whether or how, to implement a tax on transient accommodation.

## **10. Question: If a municipality chooses not to implement a Municipal Accommodation Tax, can DMPs/DMFs still be set up even though the regulations for a tax are in place?**

Yes.

Decisions about whether to implement destination marketing programs continue to be industry-led. There is no provincial involvement. These fees are entirely a private-sector initiative. However, some tourism leaders have indicated that if a transient accommodation tax is in place, they will terminate their destination marketing programs due to competitiveness reasons.

When exploring either option, municipal and tourism partners may wish to consider all factors that will ensure their regions remain competitive tourism destinations. We encourage municipalities to work together with their tourism partners and to consider potential impacts on the tourism industry and consumers when making decisions about whether or how, to implement a tax on transient accommodation.

## **11. Question: Does HST need to be collected on a Municipal Accommodation Tax?**

Yes. The 13% Harmonized Sales Tax (HST) applies to the all-in price of transient accommodation, including any municipal accommodation tax.

We encourage municipalities that have questions about the requirements of the legislation or regulations to discuss them with their legal counsel.

## **12. Question: The requirement to enter into an agreement (Section 6 (1) in the Municipal Act regulation and Section 5 (1) in COTA regulation) references that the financial accountability agreements “may provide for other matters”. What does that phrase mean, and does it suggest that the municipality may try to include how the funds are used?**

Under 5(1) of the COTA regulation and 6(1) of the MA regulation, it is mandatory to have an agreement that deals with reasonable financial accountability matters. It is optional for the agreement to deal with matters other than reasonable financial accountability matters. The statement that the agreements “may provide for other matters” clarifies this flexibility, and provides explicit authority for it. Thus, the agreement may deal with other matters (including the use of the money in a particular manner in promoting tourism) if the parties agree, but it doesn't need to deal with such matters if the parties choose not to do so, or can't agree on such matters.

**13. Question: Relating to the regulation under the Municipal Act in respect to revenue sharing (where a destination marketing program currently exists), under Section 4(1) it states: "this section applies if a destination marketing program exists in a municipality on the day before the tax comes into effect." If a DMP existed at some time, but was cancelled due to lack of participation, support etc.—and in that case, no DMP exists on the day before the hotel tax comes into effect in that municipality—would the proceeds of a tax be subject to 50% sharing?**

Yes. Section 5 of the transient accommodation tax regulation under the Municipal Act applies if a DMP does **not** exist in the municipality on the day before the tax comes into effect. In the case of a DMP that existed in the municipality in the past, but does not exist in the municipality on the day before the tax comes into effect, the municipality would be required to share 50% of the net revenues from the tax with one or more eligible not-for-profit tourism organizations chosen by the municipality.

**14. Question: Can funds collected as part of a Municipal Accommodation Tax be channeled to an economic development corporation?**

The answer depends on the activities of the economic development corporation. To be eligible to receive municipal accommodation tax revenue, a tourism 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.

**15. Question: Can a tourism entity negotiate with their municipality to receive more than the minimum share of revenue as outlined in the regulations?**

Yes.

Revenues from the transient accommodation tax that exceed the amount that municipalities are required to share with a not-for-profit tourism organization may be retained by municipalities for their own purposes. The sharing formula does not prevent municipalities from dedicating more than the required amount to tourism activities.



**16. Question: If a municipality agrees to share more than the minimum amount of Municipal Accommodation Tax revenue with a tourism entity as outlined in the regulations, will the municipality have control/say over how that money is to be spent?**

This should be part of the negotiation between the tourism entity and the municipality, and then clearly defined in the agreement between the two bodies.

The transient accommodation tax regulations do not govern municipal decisions to fund the local tourism sector above and beyond the sharing requirements set out under the transient accommodation tax regulations.

**17. Question: With regards to establishing the base amount for an existing DMF program, does the money collected by a hotel association in the calendar year (including monies collected in January 2018 for December 2017) count as the base? Or, is the base calculated using one of the following: 1) monies received by the DMO from the hotel association in the calendar year OR 2) monies committed by the hotel association to the DMO for the year.**

If an eligible tourism entity can demonstrate to the municipality's satisfaction that an amount was collected under a destination marketing program and received by them in respect of the eligible tourism entity's last fiscal year that ended before the tax came into effect, then the amount could be included in the tourism entity's base amount, even if not actually received in that year. Please refer to formula element "A" in Section 4(4) of the COTA regulation, and Section 4(5) of the Municipal Act regulation.

**18. Question: Will tourism organizations receiving proceeds from a Municipal Accommodation Tax be allowed to accumulate a reserve fund using monies not spent in a given year?**

If a hotel association (or other collecting tourism organization) has a reserve fund consisting of DMF funds collected in years prior to a tax being introduced, and the association decides to provide all or part of those reserves to a tourism organization during the reference fiscal year, only the portion of the reserve fund that was collected in the reference fiscal year would count toward the municipality's minimum sharing requirement. As well, any DMF amounts collected on transient accommodation

provided in a municipality before a tax is in place, and put into a reserve by the hotel association and are paid to a tourism organization after a tax is in place, would not decrease the municipality's minimum sharing requirement in the year the amounts are received by the tourism organization.

Regarding a potential reserve fund of tax revenues, please note that tax revenues shared with an eligible tourism entity must ultimately be used by the entity for the exclusive purpose of promoting tourism (which includes the development of tourism products).

**19. Question: Are college and university dorm rooms exempt from the MAT during the school year? Are they exempt from the MAT during non-school use, i.e. summer, when they rent out the dorm rooms to other groups and travellers?**

Yes, all accommodation at colleges and universities are exempt from the MAT at all times.

**20. Question: In the Municipal Accommodation Tax Regulations (O. Reg. 435/17, s. 4(8) 2, and O. Reg. 436/17, s. 4(7) 2), it says that the annual percentage change (accelerator) will be calculated based on a 10-year period between the second year immediately preceding that particular fiscal and the 12<sup>th</sup> year immediately preceding the particular fiscal year. Does this mean that if a Municipal Accommodation Tax is implemented in 2018, in 2019 the tourism entity will receive the base amount from 2018, plus the accelerator as calculated 2007-2016?**

Reference should be made to the regulations for detail about how to calculate the amount of tax revenues that must be shared.

Municipalities with a pre-existing destination marketing program that implement a tax would initially be required to share an amount that matches the revenues collected on transient accommodation provided in the municipality and received by the relevant not-for-profit tourism organization under a destination marketing program from accommodations in the municipality, in respect of the fiscal year before the transient accommodation tax came into effect.

In subsequent years, municipalities would need to adjust this "base amount" by applying the "tourism receipt factor", based on tourism receipts data for Ontario calculated by the Ministry of Tourism, Culture and Sport and posted on its website. The tourism receipt factor is the 10-year rolling average of the annual percentage change in Ontario's total tourism receipts, subject to a 2-year lag.

## **21. Question: After the second year of a Municipal Accommodation Tax, will the base amount be the total amount received in the second year, plus the accelerator, which will become the new base amount?**

Reference should be made to the regulations for detail about how to calculate the amount of tax revenues that must be shared.

Municipalities with a pre-existing destination marketing program that implement a tax would initially be required to share an amount that matches the revenues collected on transient accommodation provided in the municipality and received by the relevant not-for-profit tourism organization under a destination marketing program from accommodations in the municipality, in respect of the fiscal year before the transient accommodation tax came into effect.

In subsequent years, municipalities would need to adjust this "base amount" by applying the "tourism receipt factor", based on tourism receipts data for Ontario calculated by the Ministry of Tourism, Culture and Sport and posted on its website. The tourism receipt factor is the 10-year rolling average of the annual percentage change in Ontario's total tourism receipts, subject to a 2-year lag.

## **22. Question: Are there options for who specifically collects funds raised by a Municipal Accommodation Tax? Does it have to be a municipality?**

The regulation allows for the decision around who collects the funds raised by a Municipal Accommodation Tax to be made at the local level.

Under the *Municipal Act, 2001*, s. 400.5 and the *City of Toronto Act, 2006*, s. 271, municipalities that choose to impose a transient accommodation tax could reach an agreement with a person or entity to collect the tax on a municipality's behalf. It would be up to the discretion of the local municipality's council to design the transient accommodation tax.

The legislation stipulates that municipal bylaws implementing a transient accommodation tax must meet certain requirements, including setting out the manner in which it would be collected.

## **23. Question: What enforcement powers will a municipality have for non-payment of a Municipal Accommodation Tax by hotels?**

If a municipality decides to implement a municipal accommodation tax, it would need to enact the appropriate bylaws in order to implement the tax. Should a municipality choose to implement a transient accommodation tax, it has the flexibility to determine the design of the tax, including the appropriate enforcement mechanism.

## 24. Question: Is there a way for RTOs to get involved in collection of a transient accommodation tax?

- How to approach municipalities about this?
- Would government support this approach?
- Is there an opportunity for governance training for RTOs re: MAT?

RTOs were established to improve coordination, investment and planning within the sector across Ontario. The RTOs' mandate is to provide leadership in four areas: marketing; product development; workforce development; investment attraction.

Additional activities of RTOs are subject to provincial approval as part of the business planning and Transfer Payment Agreement process.

## 25. Question: Do municipalities need to spend their 50% of MAT revenue in the year following collection, or can they reserve the funds to support a bigger tourism project in the future?

Municipal accommodation tax regulations under the *Municipal Act, 2001*, and the *City of Toronto Act, 2006* do not address, or limit in any way, how a municipality may use or spend revenues from a transient accommodation tax.

However, the regulations require a municipality that has imposed a tax to make one or more payments to an eligible tourism entity or entities, for each full or partial fiscal year of the municipality that the tax is in effect, the total of which must be at least equal to the amount set out in the regulations.

Accordingly, the regulations do not require a municipality to spend revenues from a tax in the year following the collection. Decisions on how to spend revenue generated from a municipal/transient accommodation tax is at the discretion of the municipality. As such, a municipality could use revenues from a tax to contribute to a reserve to support a bigger tourism project that is on the horizon.

📍 439 University Avenue, Suite 1400  
Toronto, Ontario  
CA M5G 1Y8

☎ 416-483-1691

✉ [info@tiaontario.ca](mailto:info@tiaontario.ca) (mailto:info@tiaontario.ca)

### Latest News

TIAO Member of the Month: Wikwemikong Tourism (<https://www.tiaontario.ca/articles/tiao-member-of-the-month-wikwemikong-tourism>)

March 28, 2019

Discover Wikwemikong Tourism