

ONTARIO REGULATION 435/17

made under the

MUNICIPAL ACT, 2001

Made: November 22, 2017

Filed: November 23, 2017

Published on e-Laws: November 23, 2017

Printed in *The Ontario Gazette*: December 9, 2017

TRANSIENT ACCOMMODATION TAX

Interpretation

1. (1) In this Regulation,

“destination marketing program” means a program under which one or more providers of transient accommodation in a municipality agree to pay a portion of their revenue to a non-profit entity (for which the providers of transient accommodation may or may not charge fees to purchasers of transient accommodation to recover that revenue) to be used by an eligible tourism entity in promoting tourism; (“programme de marketing de destinations”)

“eligible tourism entity” means a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality; (“entité touristique admissible”)

“Ontario’s total tourism receipts” means, in respect of a year, the amount set out in the column titled “Total” for that year in the table titled “Ontario’s Tourism Receipts by Origin” that is published by the Ministry of Tourism, Culture and Sport on the Government of Ontario website. (“recettes touristiques totales de l’Ontario”)

(2) For greater certainty, the expressions “promotion of tourism” and “promoting tourism” include the development of tourism products.

Application

2. This Regulation applies if a municipality imposes a tax in respect of the purchase of transient accommodation in the municipality under section 400.1 of the Act.

Limit re imposition of tax

3. A municipality is not authorized to impose taxes under section 400.1 of the Act in respect of the purchase of transient accommodation at a university or a college of applied arts and technology or post-secondary institution whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown.

Revenue sharing — destination marketing program exists when tax imposed

4. (1) This section applies if a destination marketing program exists in the municipality on the day before the tax comes into effect.

(2) For each full or partial fiscal year of the municipality that the tax is in effect, the municipality shall make one or more payments to the eligible tourism entity that received revenue, directly or indirectly, from providers of transient accommodation in the municipality under a destination marketing program that existed immediately before the tax came into effect, the total of which must be at least equal to the amount determined under this section.

(3) Any amounts paid to the eligible tourism entity under subsection (2) shall be used by the eligible tourism entity for the exclusive purpose of promoting tourism.

(4) The amount referred to in subsection (2) in respect of a fiscal year of the municipality is the lesser of,

(a) the total amount of revenue from the tax received by the municipality in respect of the fiscal year; and

(b) the amount determined under subsection (5), (6), (8) or (9) for the fiscal year.

(5) If, for the first fiscal year of the municipality in which the tax takes effect, the tax is in effect for the entire fiscal year, the amount referred to in subsection (2) in respect of that fiscal year is the amount determined using the formula,

$$A - B$$

in which,

“A” is the total amount of revenue that was collected on transient accommodation provided in the municipality under the destination marketing program in respect of the eligible tourism entity’s last fiscal year that ended before the tax came into effect and that was received by the entity under the program in respect of that year, and

“B” is any revenue that was collected on transient accommodation provided in the municipality under a destination marketing program at any time when the tax was in effect and that was received by the entity under the program in the first fiscal year of the municipality in which the tax takes effect.

(6) If, for the first fiscal year of the municipality in which the tax takes effect, the tax is not in effect for the entire fiscal year, the amount referred to in subsection (2) in respect of that fiscal year is the amount determined under subsection (5), as if the amount determined under the definition of “A” in that subsection were multiplied by the amount determined using the formula,

$$C/D$$

in which,

“C” is the number of days that the tax is in effect in the fiscal year, and

“D” is the total number of days in the fiscal year.

(7) Subsections (8) and (9) apply with respect to fiscal years of the municipality other than the first fiscal year in which the tax takes effect.

(8) For a particular fiscal year of the municipality in which the tax is in effect for the entire year, the amount referred to in subsection (2) in respect of that particular fiscal year is the greater of the following amounts:

1. The total amount of revenue that was collected on transient accommodation provided in the municipality under the destination marketing program in respect of the last fiscal year of the eligible tourism entity that ended before the tax came into effect and that was received by the entity under the program in respect of that year,
2. The amount determined by applying the following steps:
 - i. Determine the amount paid by the municipality to the eligible tourism entity under this section in respect of the fiscal year that precedes the particular fiscal year. If the tax was not in effect for the entire fiscal year that preceded the particular fiscal year, the amount referred to in paragraph 1 is deemed to be the amount determined under this subparagraph.
 - ii. Determine the average annual percentage change in Ontario’s total tourism receipts over the 10-year period between the second year immediately preceding the particular fiscal year and the 12th year immediately preceding the particular fiscal year.
 - iii. Multiply the percentage change determined under subparagraph ii by the amount determined under subparagraph i.
 - iv. If the percentage change determined under subparagraph ii is positive, add the amount determined under subparagraph iii to the amount determined under subparagraph i. If the percentage change determined under subparagraph ii is negative, subtract the amount determined under subparagraph iii from the amount determined under subparagraph i.
 - v. From the amount determined under subparagraph iv, subtract the amount of any revenue that was collected on transient accommodation provided in the municipality under the destination marketing program at any time when the tax was in effect and that was received by the eligible tourism entity under the program in the particular fiscal year of the municipality.

(9) For a particular fiscal year of the municipality in which the tax is not in effect for the entire year, the amount referred to in subsection (2) in respect of that particular fiscal year is the amount determined under subsection (8), as if subparagraph 2 v of that subsection did not apply, multiplied by the amount determined using the following formula,

$$(E/F) - G$$

in which,

“E” is the number of days that the tax is in effect in the particular fiscal year,

“F” is the total number of days in the particular fiscal year, and

“G” is the amount of any revenue that was collected on transient accommodation provided in the municipality under the destination marketing program at any time when the tax was in effect and that was received by the eligible tourism entity under the program in the particular fiscal year of the municipality.

(10) At the municipality’s request, the eligible tourism entity shall give the municipality evidence, to the municipality’s satisfaction, of the amounts of revenue collected and received under a destination marketing program as referred to in the

definitions of “A” and “B” in subsection (5), in paragraph 1 and subparagraph 2 v of subsection (8) and in the definition of “G” in subsection (9).

(11) The deadline for paying the amount required under subsection (2) in respect of a fiscal year is 60 days after the end of the fiscal year.

(12) Despite subsection (11), the municipality is not required to pay an amount to the eligible tourism entity until it has complied with a request from the municipality under subsection (10).

Revenue sharing — no destination marketing program exists when tax imposed

5. (1) This section applies if a destination marketing program does not exist in the municipality on the day before the tax comes into effect.

(2) For each full or partial fiscal year of the municipality that the tax is in effect, the municipality shall make one or more payments to one or more eligible tourism entities, the total of which must be at least equal to the amount determined under subsection (4).

(3) Any amounts paid to an eligible tourism entity under subsection (2) shall be used by the eligible tourism entity for the exclusive purpose of promoting tourism.

(4) The amount referred to in subsection (2) is 50 per cent of the amount determined using the formula,

$$A - B$$

in which,

“A” is the revenue from the tax received by the municipality in respect of the fiscal year, and

“B” is the municipality’s reasonable costs of collecting and administering the tax that are attributable to the fiscal year.

(5) The deadline for paying the amount required under subsection (2) in respect of a fiscal year is 60 days after the end of the fiscal year.

Requirement to enter into agreement

6. (1) The municipality and each eligible tourism entity that receives an amount under section 4 or 5 shall enter into an agreement respecting reasonable financial accountability matters in order to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, and the agreement may provide for other matters.

(2) For clarity, a requirement that an amount paid by a municipality under subsection 4 (2) or 5 (2) be used in a particular manner in promoting tourism is not a reasonable financial accountability matter for the purpose of subsection (1) of this section.

Receipt for transient accommodation tax

7. A provider of transient accommodation in a municipality that is required to collect the tax shall include on every invoice or receipt for the purchase of transient accommodation a separate item for the amount of tax on transient accommodation imposed on the purchase, and the item shall be identified as “Municipal Accommodation Tax” or as the name of the municipality followed by “Accommodation Tax”.

Commencement

8. This Regulation comes into force on the later of the day section 11 of Schedule 19 to the *Stronger, Healthier Ontario Act (Budget Measures), 2017* comes into force and the day it is filed.

Français

[Back to top](#)