

Town of Swan River
By-Law No. 11/2023

Being a by-law of the Town of Swan River for the purpose of imposing a tax on accommodations.

WHEREAS The Municipal Taxation and Funding Act provides that the council of a municipality may pass bylaws imposing such forms of taxes as it deems advisable within the municipality including, without restricting the generality of the foregoing, taxes on persons who purchase hotel, motel, or short-term rental accommodations;

AND WHEREAS a tax on accommodations within the Town of Swan River is intended to generate revenue to be placed in existing or new reserves for specific purposes to be determined by the council of the Town of Swan River.

NOW THEREFORE the Council of the Town of Swan River enacts as follows:

Short Title

1. The bylaw may be referred to as the Accommodation Tax Bylaw.

Definitions

2. In this bylaw:
 - a) Accommodation — defined as lodging that is provided for consideration, whether or not the lodging is actually used for a period of minimum 4 hours and a maximum of 60 days
 - b) Billet - a civilian's residence where athletes may be lodged temporarily.
 - c) Town — means the Town of Swan River.
 - d) Establishment — provides accommodation at a particular location.
 - e) Lodging — includes a fee paid for:
 - i. The use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom.
 - ii. The use of one or more additional beds or cots in a bedroom or suite, or
 - iii. The use of a building that contains a bed(s) or a cot(s).
 - iv. Short Terms Rentals (STR)
 - f) Motel/Hotel — means an inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast, resort, hostel, club, condo hotel, dormitory, portion of large multi-use complex used as a hotel, or any place in which accommodation is provided.
 - g) Net Proceeds — means the gross revenue received from the Accommodation Tax less any refunds and any administrative costs of the Town.
 - h) Operator — means a person who sells, offers for sale, or otherwise provides accommodations.
 - i) Purchaser — means a person who purchases accommodations.
 - j) Quarterly — means three-month periods as follows:
 - i. Quarter 1: January 1 — March 31 inclusive
 - ii. Quarter 2: April 1 — June 30 inclusive
 - iii. Quarter 3: July 1 — September 30 inclusive
 - iv. Quarter 4: October 1 — December 31 inclusive
 - k) Reasonable notice — is fourteen calendar days. This notice will be mailed via regular mail and will be considered delivered to the recipient seven days after it was mailed.

- l) Short Term Rental (STR) – means the use, offer, or advertising for lease, rent or bated, of all or part of a dwelling unit to provide temporary accommodation for a period of less than 60 days and includes bed and breakfasts.
- m) Tax Collector — means the Chief Financial Officer, or designate, of the Town of Swan River who administers or enforces all or part of this bylaw.
- n) Tax – The municipal accommodation tax – Hotel and STR Municipal Accommodation Tax imposed by this By-Law including all penalties and interest that are or may be added to such a tax.

Appointment of the Tax Collector

- 3. The Tax Collector for this bylaw shall be the Chief Financial Officer or designate. In administering the By-Law, the Tax Collector may issue such interpretation bulletins and guidelines as the Tax Collector, from time to time determines as necessary or advisable.

Application of Tax

- 4. Subject to this section, a Purchaser must, at the time of purchasing accommodation, pay an accommodation tax in the amount of 5% for each night of accommodation.
- 5. The accommodation tax imposed by clause 4 does not apply to the following situations:
 - a) Accommodation provided to patients or residents in a hospital, a sanatorium, a facility designated by regulations under The Mental Health Act, a personal care home licensed under The Health Services Insurance Act: or a residential care facility licensed under The Social Services Administration Act
 - b) Accommodation provided to a student by a registered University or College of applied arts and technology or post secondary institution while the student is registered at and attending the institution.
 - c) Accommodation provided to a student by any First Nation group to enable them to attend Primary or Secondary School.
 - d) Billet provided to an athlete who is actively participating with a sports club within Swan Valley.
 - e) Tent or trailer sites supplied by a campground, tourist camp, or trailer park.
 - f) Every accommodation which is supplied and operated by employers for their employees.
 - g) A hospitality room in an establishment that
 - i. Does not contain a bed,
 - ii. Is not a suite that contains a bed, and
 - iii. Is used for displaying merchandise, holding meetings, or entertaining.
 - h) Accommodation provided by a registered homeless shelter.
 - i) A time-share arrangement.
 - j) Accommodation provided for stays longer than 60 days where deemed a primary residence.
 - k) Elements of an all-inclusive vacation package that:
 - i. Do not take place in, or on the grounds of, the establishment providing the accommodation, and
 - ii. Can be reasonably distinguished from the elements of the all-inclusive vacation package that are related to the accommodation.

Tax Collected by Operator

6. An Operator must, as an agent for the Tax Collector, collect the accommodation tax from the Purchaser at the time the accommodation is purchased.
7. The amount of the accommodation tax shall be shown as a tax by the Town of Swan River and must be shown as a separate clause or charge on the bill, receipt, invoice, or similar document issued by the Operator in respect of accommodation on which the tax is imposed.

Tax Remitted and Statement Submitted Quarterly by Operator

8. An Operator must remit to the Tax Collector within 30 days of the end of the previous quarter for each establishment the Operator operates the amount of the accommodation tax that was collected by the Operator during that period. It will be as a quarterly statement on a form provided by the Tax Collector which must contain information reasonably required by the Tax Collector to administer or enforce this bylaw including:
 - a) The total number of nights of accommodation sold by the establishment during the quarter;
 - b) The total number of nights of accommodation during the quarter that are not subject to the accommodation tax;
 - c) The total number of nights of accommodation during the quarter that are subject to the accommodation tax;
 - d) The total accommodation tax collected; and
 - e) The total accommodation tax remitted.
9. Unless otherwise permitted by the Tax Collector, the obligation to provide a quarterly statement applies even when no taxes have been collected.
10. An Operator shall be permitted to a holdback of accommodation tax fees collected in each quarter in the amount of \$50. The holdback amount shall be clearly outlined on the accommodation tax form. This holdback shall be permitted each quarter, to accommodate expenses an Operator may incur as a result of administering the collection of the accommodation tax. Note that if an Operator's total remittance in any one quarter is equal to or less than \$50, the tax form still needs to be submitted to the Tax Collector, but no fees need to be submitted to the Tax Collector.

Refunds

11. Where a person has paid or remitted an amount that is not payable under this By-Law, the Tax Collector may, upon receipt of satisfactory evidence in the opinion of the Tax Collector, make a determination that the amount was wrongly paid or remitted, and if such determination is made, the Tax Collector shall refund or credit all or part of the amount. No refund shall be made or approved unless an application for such refund is made within 12 months after the payment date.
12. Where a person has, in accordance with this By-Law, applied for a refund under this By-Law and the person's claim is in whole or in part refused, the Tax Collector, or any person authorized by the Tax Collector, shall cause to be delivered to such person by mail or registered mail or deliver by hand personally, a statement of disallowance in such form as the Tax Collector shall require, the statement shall specify the amount of the disallowance and the reason for the disallowance.

Inspection, Audit, and Collection

13. Every operator shall retain all records, books, and documentation in respect of all accommodation transactions and all taxes paid, payable and remitted for a period of no less than three years.
14. The Tax Collector or his designate, for the purpose of enforcing this bylaw, after giving reasonable notice, may enter any establishment to:
 - a) Collect the tax imposed by this bylaw, if necessary;
 - b) Audit the books, records, and accounts of the Operator for the purpose of ascertaining the amount of tax to be collected and remitted;
 - c) Require the Operator to produce for inspection any book, contract, agreement, letter, paper or document relating to the establishment, the accommodation provided, or any other matter relating to this bylaw; and
 - d) Make and remove any copies of any documents or records required in the administration of this bylaw.
15. The Tax Collector, for the purpose relating to the administration of this By-Law, may serve any person, a written demand for information for the production on oath of record documents as the Tax Collector considers necessary to determine compliance with this By-Law.
16. A person in receipt of a demand under clause 15 shall comply with the demand within the specified time in the demand. No person shall hinder or interfere with any person doing anything that is authorized by this section, and despite any other By-Law of the Town, every person shall, unless unable to do so, comply with everything the person is required by this section to do.

Assessments

17. In the case a person fails to pay or remit the tax as required, the tax collector may make assessments of an amount of tax required to be paid or remitted under this By-Law, together with any interest imposed on any tax outstanding.
18. The tax collector may assess any person for any tax payable by the person under this By-Law, within two years from the day the tax was remittable. Where the tax collector established that a person has made any misrepresentation, neglect, carelessness, default or fraud in supplying any information under this By-Law, the Tax Collector may at anytime he/she considers reasonable, assess or reassess the amount payable.
19. The Tax Collector shall provide notice in writing of the assessment or reassessment made under clauses 17 and 18 of this By-Law, which shall include the amount of the assessment or reassessment and must provide the amount is payable forthwith by the person and within 30 days of delivery of the notice of assessment or reassessment. The Tax collector is not bound by any information delivered by or on behalf of a person responsible for the payment of tax under this By-Law and may assess the tax at his/her discretion. The assessment, subject to being varied or vacated on an objection or appeal shall be deemed valid and binding despite error, defect or omission in the assessment or in any proceeding related to it. The amount of any assessment is payable within the time required regardless of whether an objection or appeal from the assessment is taken or made.

Objections

20. A person, within 60 days of notice of assessment or reassessment, may serve the Tax Collector with written notice of objection in the form as approved by the Tax Collector, to an assessment or

disallowance made under clauses 19 or 12 of this By-Law. Any objection made that does not clearly describe each issue and fully set out the facts and reasons relied on in respect to each issue, or is not in writing, shall not be considered.

21. Upon receipt of an approved objection form, the Tax Collector shall reconsider the assessment, reassessment, or disallowance and vacate, confirm, or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance. The Tax Collector shall then notify the person who has made the objection in writing of action taken.

Appeals

22. Only after the Tax Collector has given written notice as required by clause 21, and only within 60 days after the notice was given to the person under clause 21, a person who has served notice under clause 20 may appeal to council to have the assessment, reassessment, or disallowance vacated or varied, reassessed, or a fresh statement of disallowance issued.
23. The Power to hold a hearing, which is not mandatory, shall be delegated to council committee.
24. A person is entitled to raise by way of appeal only those issues listed in the notice of objection being appealed in respect of which the person has complied with clause 20.
25. The Council Committee shall set a date and time to consider the appeal with pertinent information. Following the consideration of an appeal, the council shall direct to the tax collector the determination to dispose of an appeal by allowing or dismissing it, in whole or in part, together with the reasons for its determination, and the Tax collector shall vacate, vary, or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance. The Tax collector shall notify the person appealing of the determination in writing.

Address for Service

26. Where an address for service under this bylaw is required, one of the following shall be used:
 - a) If the person to be served is an Operator, then the street address or mailing address of the establishment of which he or she is the Operator; or
 - b) If the person to be served is not the Operator, then the address provided by that person in communication with the Tax Collector.

Late Payments and other Penalties

27. A penalty equivalent to the product of 1.25% and the amount of unremitted accommodation taxes shall be added to those accommodation taxes imposed by clauses 4 and 5 that are required to be remitted as per clause 8 but have not been remitted by the date specified in clause 8.
28. The penalty imposed by clause 27 above shall be compounded monthly on the last day of each succeeding month.
29. Once compounded, the penalties form part of the unremitted accommodation taxes and in subsequent months, penalties shall be charged upon the previous month's compounded amount until the accommodation taxes are remitted.

30. In any quarter that an Operator does not remit their accommodation tax by the due date of the last day of the month following the quarter, the Operator forfeits their holdback for that quarter.

Other Penalties

31. Notwithstanding any other remedies available to the Town under this bylaw or any other bylaw, any person who contravenes, disobeys, refuses to or neglects to obey any provision of this bylaw may be subject to a Fine Notice under the Town of Swan River’s Municipal Bylaw Enforcement Act (MBEA) Enabling Bylaw.

Use of the Accommodation Tax Funds

32. In any given year, the Accommodation Tax will be placed in a reserve to be used for Recreation and Active Living— Providing well maintained recreation and active living assets.

Effective Date

33. This bylaw shall come into force on _____

Done and passed as a by-law of the Town of Swan River in the Province of Manitoba this _____

Lance Jacobson
Mayor

Derek Poole
Chief Administrative Officer

Read a first time this 19th day of September, 2023

Read a second time this day of

Read a third and final time this day of