

## **New Taxation Measures – Results of Further Consultations respecting Alcohol Tax on Store Sales**

|                          |   |
|--------------------------|---|
| <b>Date:</b>             | October 24, 2007  |
| <b>To:</b>               | Executive Committee                                     |
| <b>From:</b>             | City Manager<br>Director, Corporate Finance             |
| <b>Wards:</b>            | All   |
| <b>Reference Number:</b> | P:\2007\Internal Services\Cf\ec07046Cf – et (AFS #5864) |

### **SUMMARY**

---

This report provides the results of further consultations regarding a potential City alcohol tax on store sales, in accordance with the decisions of Council from its meeting of October 22 and 23, 2007 in regard to EX10.1 (including a report, dated June 11, 2007 entitled “New Taxation Measures – *City of Toronto Act, 2006*” and a supplemental report, dated July 12, 2007 entitled “New Taxation Measures Supplemental Report – *City of Toronto Act, 2006*”).

Council directed the Deputy City Manager and Chief Financial Officer to undertake further consultations in respect of alcohol tax on store sales to non-licensed consumers with Toronto-based liquor, wine and beer retailers, and government taxing authorities, and report back to the Executive Committee in the Fall of 2007 with the results.

### **RECOMMENDATIONS**

---

The City Manager and the Director of Corporate Finance recommend that the City not pursue the implementation of an alcohol tax.

#### **Financial Impact**

There is no financial impact from the recommendations in this report.

In an earlier report, a moderate alcohol tax of 5% on purchases by non-licensed consumers in Toronto liquor beer and wine stores was estimated to generate approximately \$44 million annually, after consideration of typical market reaction and administrative costs.

Potential collateral impacts on property tax revenue due to changing consumer patterns caused by such a tax, as discussed in this report, could partially offset this revenue.

## **DECISION HISTORY**

Council at its meeting of October 22 and 23, 2007 in regard to EX10.1 (including a report, dated June 11, 2007 entitled “New Taxation Measures – *City of Toronto Act, 2006*” and a supplemental report, dated July 12, 2007 entitled “New Taxation Measures Supplemental Report – *City of Toronto Act, 2006*”), adopted a recommendation that requested the Deputy City Manager and Chief Financial Officer:

- to undertake further consultations in respect of alcohol tax on store sales to non-licensed consumers with Toronto-based liquor, wine and beer retailers, and government taxing authorities; and
- to report back to the Executive Committee in the Fall 2007 with the results.

## **COMMENTS**

### Results of Discussions with Wine-Beer-Spirit Related Stakeholders

Over the summer, further discussions with alcohol store stakeholders resulted in additional input in regard to a potential alcohol tax in the City. In addition to written submissions received by the City Clerk, staff heard representations from the LCBO, Canada’s National Brewers, the Craft Brewers of Ontario, the Wine Council of Ontario, the Ontario Restaurant Hotels and Motels Association, the Ontario Imported Wine Spirits and Beer Association, and Spirits Canada.

There are three main areas where concerns persist with regard to this tax option.

### Avoidance

An alcohol tax, unlike vehicle ownership or land transfer tax, is collected based on the location of the transaction rather than the place of residence. Many Toronto residents could succeed in avoiding the tax by making their purchases outside Toronto. The Hemson study suggested that as long as the tax was relatively modest, avoidance would not be a major factor. Nevertheless, consumers in close proximity to neighbouring municipalities would be much more likely to seek to avoid the tax. There are a number of reasons for this including:

- a) alcohol products as a group are already a highly taxed commodity, with taxes representing over 50% of the retail price. Highly taxed activities are more prone to avoidance.
- b) most alcohol and beer store purchases are made by customers who drive to the retail outlet and therefore may be more prone to changing purchase patterns.
- c) many Torontonians commute to work outside the City by car. Many people employed in Toronto live outside the City and commute into the City. These commuting patterns create opportunities for avoidance by making purchases outside the City.

Currently there are approximately 70 Beer Stores, 60 LCBO stores, and 40 wine retailer stores in Toronto. Spirits Canada provided examples of LCBO catchment areas, indicating distances patrons are prepared to travel from their homes to make purchases. Alcohol product retailers warned that future investment decisions regarding store expansions and locations would be influenced by changes to buying patterns resulting from the tax. They indicated that liquor and beer stores often draw retail traffic to nearby stores, and therefore relocation of liquor and beer stores could lead to spin off effects in retail areas particularly near the border of the City. They also suggested that regional operations such as flagship LCBO stores where most special orders are processed could also be relocated due to market changes. These unintended consequences could affect City property tax revenues over time, partly offsetting the revenues estimated to be generated from the tax.

#### Liquor Control Act - Uniform Pricing Provisions

Both LCBO and Brewers Retail stores are required under the *Liquor Control Act* (the “LCA”) to display uniform product pricing across the Province. Spirits Canada shared with City staff a legal opinion they obtained in this regard, finding concerns as to the legality of any alcohol tax to be imposed by the City of Toronto on in-store sales of alcoholic beverages and concluding that an alcohol tax may only be permissible in respect of sales within licensed establishments for immediate consumption.

The pricing challenge is further complicated by the confirmation (by the Canada Revenue Agency to the LCBO) of applicability of GST to the City tax-inclusive price. In other words, the amount of GST on alcohol products sold in Toronto would be different (marginally higher) due to application of the GST on the amount of the Toronto tax. This may further complicate matters regarding the uniform pricing issue, the required administrative and systems changes, and influence market response to the tax. So far we have no reason to believe that PST would be similarly applied.

#### Administration

A City retail sales tax on alcohol sales would be a new tax at the cash registers in retail stores. This has administration implications for the retailers and for the City.

The City would have to develop a new system to collect the tax, or hire an outside agency to do so. Of the two governments collecting sales tax in Toronto, only the Canada Revenue Agency has expressed preliminary interest in administering such a tax for the City. CRA has previously indicated that considerable customization of current systems or potentially development of brand new systems would be required.

Whether or not the City had intentions to administer the tax itself, it would have to develop a business plan to do so in order to evaluate any proposal from the CRA. Whether administered in-house or by contract, the investment of time and money to develop the systems to support such a tax would be higher than for the two tax options recommended to Council, and would take longer to implement. Furthermore, undertaking this tax at the same time as implementing the

land transfer tax and the vehicle ownership tax would undermine the ability of the City to implement these approved tax initiatives effectively and on time.

## **Conclusions**

This report presents results of a staff review and further consultations with Toronto-based liquor, wine and beer retailers regarding a potential tax on store sales to non-licensed consumers. Because of a combination of tax avoidance implications, complications due to uniform pricing issues and applicability of GST on an alcohol tax, and the cost and effort associated with administration of the tax, this report recommends that this tax not be pursued.

## **CONTACT**

Len Brittain, Director, Corporate Finance

Tel: (416) 392 – 5380; Fax: (416) 397 – 4555; E-mail: lbrittai@toronto.ca

## **SIGNATURES**

---

Shirley Hoy  
City Manager

---

Len Brittain  
Director, Corporate Finance