

Authority: Executive Committee Item EX30.4, adopted as amended, by City of Toronto Council on January 31 and February 1, 2018

CITY OF TORONTO

Bill 297

BY-LAW -2018

To enact a new City of Toronto Municipal Code Chapter 758, Taxation, Municipal Accommodation Tax and amend City of Toronto Municipal Code Chapter 27, Council Procedures.

Whereas City Council has adopted a new Municipal Accommodation Tax on the sale of transient accommodations in the City of Toronto; and

Whereas it is necessary to enact a new Municipal Code Chapter to implement such a tax and to make ancillary amendments to Municipal Code Chapter 27, Council Procedures;

The Council of the City of Toronto enacts:

1. The City of Toronto Municipal Code is amended by adding Chapter 758, Taxation, Municipal Accommodation Tax as set out in Schedule 1 to this By-law.
2. The City of Toronto Municipal Code is amended by adding the following to § 27-126C(2) of Chapter 27, Council Procedures:
 - (e) The Government Management Committee is delegated the power and authority to hold hearings required by Chapter 758, Taxation, Municipal Accommodation Tax, in respect of appeals under that chapter.
3.
 - (1) Subject to Subsection (2), this By-law shall come into force on April 1, 2018.
 - (2) Chapter 758, Taxation, Municipal Accommodation Tax, shall come into force in respect of the Municipal Accommodation Tax – Short-Term Rental at such time as the City's licensing and registration systems for short-term rentals comes into force.

Enacted and passed on March , 2018.

Frances Nunziata,
Speaker

Ulli S. Watkiss,
City Clerk

(Seal of the City)

SCHEDULE 1

Chapter 758

TAXATION, MUNICIPAL ACCOMMODATION TAX

ARTICLE 1

General

§ 758-1.1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCOMMODATION - Hotel Accommodation and Short-term Rental Accommodation.

CHIEF FINANCIAL OFFICER - At any time, the person appointed as the City Treasurer under section 138 of the City of Toronto Act, 2006, S.O. 2006, C.11, Schedule A.

GOVERNMENT MANAGEMENT COMMITTEE - At any time, the Government Management Committee of the City or the persons or entity performing the functions of the Government Management Committee of the City, including any successor committee.

HOTEL ACCOMMODATION - Lodging in a room containing one or more beds in a hotel, motel, hostel, club, condo hotel, or portion of a large multi-use complex used as a hotel, for a period of a minimum of 4 hours and a maximum of 30 consecutive days.

MUNICIPAL ACCOMMODATION TAX - HOTEL - Tax imposed by this chapter in respect of Hotel Accommodation.

MUNICIPAL ACCOMMODATION TAX - SHORT-TERM RENTAL (STR) - Tax imposed by this chapter in respect of Short-term Rental Accommodation.

OPERATOR - A person or an entity that sells, offers for sale, or otherwise provides Accommodation.

PURCHASER - A person purchasing Accommodation.

PURCHASE PRICE - The price for which Accommodation is purchased, including all fees and surcharges for additional occupants, beds and towels, and where not separately itemized on the invoice, all fees and surcharges for ancillary services including food, beverages, entertainment, internet and telephone usage.

SHORT-TERM RENTAL - All or part of a dwelling unit used to provide sleeping accommodations for any rental period that is less than 28 consecutive days in exchange for payment, and includes bed and breakfasts.

SHORT-TERM RENTAL ACCOMMODATION - Lodging in a short-term rental.

SHORT-TERM RENTAL COMPANY - Any person who brokers short-term rental reservations via the internet and who:

- A. receives payment, compensation, or any other financial benefit as a result of, or in connection with, a person making or completing bookings of those short-term rentals; or
- B. collects, accesses, or holds information on the number of nights that reservations of those short-term rentals are made or completed,

but does not apply to a person who facilitates or brokers reservations for a short-term rental that is the principal residence of that person or her or his immediate family. A person in this definition includes multiple persons who, acting together, carry on the business of a short-term rental company, despite the fact that no single one of those persons carries on the activity in its entirety, and such may be held jointly and severally responsible for each other's actions.

TAX - The Municipal Accommodation Tax - Hotel, and the Municipal Accommodation Tax-STR imposed by this chapter including all penalties and interest that are or may be added to such a tax.

§ 758-1.2. Interpretation bulletins and guidelines.

In administering this chapter, the Chief Financial Officer may issue such interpretation bulletins and guidelines as the Chief Financial Officer, from time to time, determines necessary or advisable.

§ 758-1.3. Forms.

The Chief Financial Officer may approve the use and format of forms for any purpose of this chapter and the forms may provide for such information to be furnished as the Chief Financial Officer may require for the enforcement and proper administration of the tax.

ARTICLE 2
Tax

§ 758-2.1. Payment of tax.

Subject to the exemptions set out in § 758-2.2, every purchaser is liable for the payment of tax on the purchase of accommodation in the amount of four (4) percent of the purchase price and shall pay such tax at the time that the purchase price is paid.

§ 758-2.2. Exemptions.

- A. No tax is payable by a purchaser that is a person or entity listed in section 268 or prescribed pursuant to subsection 272(b) of the City of Toronto Act, 2006, S.O. 2006, c.11, Schedule A.
- B. No tax is payable by a purchaser in respect of the purchase of any of the following types of accommodation:

- (1) Every treatment centre that receives provincial aid under the Ministry of Community and Social Services Act;
- (2) Every house of refuge or lodging for the reformation of offenders;
- (3) Every charitable, non-profit philanthropic corporation organized as shelters for the relief of the poor or for emergency;
- (4) Every hotel or motel room used by the City or its agents for shelter purposes;
- (5) Every tent or trailer site supplied by a campground, tourist camp or trailer park;
- (6) Every accommodation supplied by employers to their employees in premises operated by the employer;
- (7) Every accommodation at a university or college of applied arts and technology or post-secondary institution whether or not affiliated with a university.

ARTICLE 3

Collection and Remittance

§ 758-3.1. Collection by the operator.

An operator shall collect the tax at the time the purchase price is paid for the accommodation.

§ 758-3.2. Invoice requirements.

An operator or a designated collector shall include on every invoice, receipt, bill or similar document for the purchase of accommodation a separate item identified as Municipal Accommodation Tax for the amount of tax imposed on the purchase.

§ 758-3.3. Designated collectors.

- A. The City may, from time to time, enter into agreements, in writing, designating the following as designated collectors to assist in the administration of this tax:
 - (1) in respect of the collection of the Municipal Accommodation Tax - STR, one or more short-term rental companies as the Chief Financial Officer considers appropriate, and
 - (2) in respect of the collection of the Municipal Accommodation Tax - Hotel, one or more persons or entities as the Chief Financial Officer considers appropriate.
- B. Where a designated collector is a short-term rental company designated under Subsection A(1), the operator of the short-term rental accommodation in respect of which the designated collector is collecting the tax through an electronic platform at the time that payment is made for the accommodations relieved of the operator's obligation under this chapter to collect and remit the tax.

- C. Where a designated collector is designated under Subsection A(2) for the purpose of collecting the tax from operators by accepting remittances on behalf of the City, operators shall remit all tax collected to the designated collector in the method required by the Chief Financial Officer.

§ 758-3.4 Remittance.

- A. Subject to § 758-3.3B and C, operators shall remit all tax collected to the City in the method required by the Chief Financial Officer.
- B. Remittance of tax shall be made in the following frequency and by the following deadlines, or in such frequency and by such deadlines as may be determined by the Chief Financial Officer:
- (1) monthly, within 15 days of the end of the previous calendar month, for operators of hotel accommodation; and
 - (2) quarterly, within 30 days of the end of the previous quarter, for operators of short-term rental accommodation.
- C. All remittances of tax shall be accompanied by a monthly report, in a form prescribed by the Chief Financial Officer, which report shall contain information pertaining to the previous month regarding the average number of Hotel Accommodations and Short-term Rental Accommodations available and rented, the average daily purchase price, the total amount collected for accommodation rentals, and the total amount of tax collected and remitted, or such information as may be required by the Chief Financial Officer.

ARTICLE 4
Interest and Fees

§ 758-4.1. Interest.

Interest at the rate of 15 percent per annum, calculated at 1.25 percent monthly shall be charged on the amount of any tax payable or remittable under this chapter from the business day following the date on which the tax or its remittance was due and payable to and including the date on which such tax is paid or remitted in full.

§ 758-4.2. Insufficient funds fee.

A fee shall be charged in respect of all remittances made by cheque that are not honoured by the financial institution upon which it is drawn in an amount set out in Chapter 441, Fees and Charges.

**ARTICLE 5
Audit and Inspection**

§ 758-5.1. Document retention.

Every operator shall retain all records, books and documents in respect of all Accommodation transactions and all taxes paid, payable and remitted for a period of no less than three years.

§ 758-5.2. Audit and inspection.

Any person authorized by the City for any purpose related to the administration or enforcement of this chapter may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or where anything is done in connection with any business or where any books or records are or should be kept and:

- A. Audit or examine the books and records and any account, voucher, letter, facsimile, electronic or other document that relates or may relate to the information that is or should be in the books or records or to an amount payable or remittable; and
- B. Require a designated collector, an officer, director, agent or representative of a designated collector, a person who is liable or possibly liable to pay or remit tax under this chapter, an officer, director, agent or representative of that person or any person on the premises:
 - (1) To give him or her all reasonable assistance with his or her audit or examination;
 - (2) To answer all questions relating to the audit or examination either orally or, if he or she requires, in writing, on oath or by statutory declaration; and
 - (3) To attend at the premises or place with him or her for the purposes of giving reasonable assistance and answering questions relating to the audit or examination.

§ 758-5.3. Demand for information.

The Chief Financial Officer may, for any purpose relating to the administration or enforcement of this chapter, serve on any person personally, by electronic communication, registered mail or by a courier service, a written demand for information or for the production on oath or otherwise of books, letters, accounts, invoices, financial statements, electronic and such other documents as the Chief Financial Officer or any other person authorized by the City to make the demand considers necessary to determine compliance with this chapter.

§ 758-5.4. Compliance, demand for information.

A person in receipt of a demand under § 758-5.3 shall comply with the demand within the time specified in the demand.

§ 758-5.5. Compliance, no interference.

No person shall hinder or molest or interfere with any person doing anything that is authorized by this article to do or shall prevent or attempt to prevent any person doing any such thing, and despite any other by-law of the City to the contrary, every person shall, unless the person is unable to do so, do everything the person is required by this article to do.

**ARTICLE 6
Refunds**

§ 758-6.1. Refunds of the tax.

- A. Where a person has paid or remitted an amount that is not payable under this chapter, the Chief Financial Officer may, upon receipt of satisfactory evidence, make a determination that the amount was wrongly paid or remitted, and if such a determination is made, the Chief Financial Officer shall refund or credit all or part of the amount, but no refund shall be made unless an application for such refund is made within 24 months after the payment date.
- B. Where a person has, in accordance with this chapter, applied for a refund under this chapter and the person's claim is in whole or in part refused, the Chief Financial Officer, or any person or entity authorized by the Chief Financial Officer, 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 Chief Financial Officer shall require, and the statement shall specify the amount of the disallowance and the reasons for the disallowance.

**ARTICLE 7
Assessments**

§ 758-7.1. General.

- A. The Chief Financial Officer may make an assessment of an amount of tax required to be paid or remitted under this chapter, together with any interest imposed upon any tax outstanding, if a person responsible for the payment or remittance of tax fails to pay or remit it as required.
- B. In this Article and in Articles 8, 9, and 10, reference to tax payable under this chapter includes tax required to be remitted by an Operator under this chapter, and includes all interest and fees payable.

§ 758-7.2. Limitations on assessment.

The Chief Financial Officer may assess or reassess any person for any tax payable by the person under this chapter within three years from the day the tax was remittable, except that where the Chief Financial Officer establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in supplying any information under this chapter, or in omitting to disclose any information, then the Chief

Financial Officer may assess or reassess, at any time the Chief Financial Officer considers reasonable, the tax payable by such person.

§ 758-7.3. Assessment on inspection.

Where it appears from an inspection, audit or examination of the books of account, records or documents of any person that this chapter has not been complied with, the person making the inspection, audit or examination shall calculate the amount payable in such manner and form and by such procedure as the Chief Financial Officer considers adequate and expedient, and the Chief Financial Officer shall assess the amount payable.

§ 758-7.4. Notice of assessment under §§ 758-7.1, 758-7.2 or 758-7.3.

The Chief Financial Officer shall send by mail or registered mail or deliver by hand a notice of the assessment made under §§ 758-7.1, 758-7.2 or 758-7.3 to the person so assessed at the person's last known address, and the notice may provide that the amount assessed is payable forthwith and, in any event, the amount of the assessment shall be remitted to the Chief Financial Officer by the person so assessed within 30 days from the date of mailing or delivery of the notice of assessment.

§ 758-7.5. Liability for tax not affected.

Liability to pay an amount under this chapter is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

§ 758-7.6. Chief Financial Officer not bound by information.

The Chief Financial Officer is not bound by any information delivered by or on behalf of a person responsible for the payment of tax under this chapter and may, notwithstanding any information that has been delivered or if no information has been delivered, assess the tax payable.

§ 758-7.7. Assessment valid and binding.

An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding despite any error, defect or omission in the assessment or in any proceeding related to it.

§ 758-7.8. Payment notwithstanding appeal.

The amount of any assessment is payable within the time required by the notice of assessment regardless of whether an objection or appeal from the assessment is made or taken.

**ARTICLE 8
Objections**

§ 758-8.1. Notice of objection.

A person that objects to an assessment made under Article 7 and a statement of disallowance made under § 758-6.3B may, within 60 days from the day of mailing or delivery by hand of the notice of assessment or statement of disallowance, serve on the Chief Financial Officer a notice of objection in the form approved by the Chief Financial Officer.

§ 758-8.2. Facts and reasons to be given.

The notice of objection shall clearly describe each issue raised by way of objection and fully set out the facts and reasons relied on by the person in respect of each issue.

§ 758-8.3. Computation of time.

For the purpose of calculating the number of days mentioned in § 758-8.1, the day on which a notice of assessment or statement of disallowance is mailed under § 758-8.1, is the date stated in the notice of assessment, or statement of disallowance.

§ 758-8.4. Service.

A notice of objection under this section shall be served by being sent by electronic communication, registered mail addressed to the Chief Financial Officer or by such other method of service as the Chief Financial Officer may determine from time to time.

§ 758-8.5. Reconsideration.

Upon receipt of a notice of objection, the Chief Financial Officer shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and the Chief Financial Officer shall then notify the person who has made the objection in writing of the action taken.

**ARTICLE 9
Appeals**

§ 758-9.1. General.

After the Chief Financial Officer has given the notification required by § 758-8.5, a person who has served notice of objection under § 758-8.1 may appeal to Council to have the assessment or statement of disallowance vacated or varied or reassessed, or a fresh statement of disallowance issued but no appeal under this section shall be instituted after the expiration of 90 days from the day on which notice has been mailed to such person under § 758-8.5.

§ 758-9.2. Delegation of power to hold hearing.

The power to hold a hearing in respect of an appeal under this article is delegated to the Government Management Committee.

§ 758-9.3. Limitation.

A person is entitled to raise by way of appeal only those issues raised by the person in a notice of objection to the assessment or statement of disallowance being appealed and in respect of which the person has complied with §§ 758-8.1 and 8.2.

§ 758-9.4. Exception.

Notwithstanding § 758-9.3, a person may raise by way of appeal an issue forming the basis of a fresh statement of disallowance, reassessment or of a variation of an assessment or statement of disallowance under § 758-8.5 if the issue was not part of the assessment or statement of disallowance with respect to which the person served the notice of objection.

§ 758-9.5. Service.

A notice of appeal shall be served on the City by being sent by registered mail addressed to the Clerk or by such method of service that the Clerk may determine from time to time.

§ 758-9.6. Contents of notice of appeal.

The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the provisions and reasons in this chapter that the person is submitting in support of the appeal.

§ 758-9.7. Consideration of appeal.

The Government Management Committee shall set a date and time to consider an appeal and the person appealing may attend and present oral or written submissions on such date.

§ 758-9.8. Recommendations to Council.

Following its consideration of an appeal, the Government Management Committee shall recommend to Council in writing that Council should dispose of an appeal by allowing or dismissing it, in whole or in part, together with the reasons for its recommendation, and shall notify the person appealing of its recommendation and reasons in writing.

§ 758-9.9. Disposition of appeal.

Council may dispose of an appeal by allowing or dismissing it, in whole or in part, and shall direct the Chief Financial Officer to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance.

§ 758-9.10. Irregularities.

No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any provision of this chapter.

**ARTICLE 10
Offences and Fines**

§ 758-10.1. Continuing offences.

- A. Every person is guilty of an offence under this chapter who:
- (1) Makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a report, statement, form or other document prepared, submitted or filed under or for the purposes of this chapter;
 - (2) Destroys, alters, mutilates, hides or otherwise disposes of any records or books of account, in order to evade payment or remittance of tax;
 - (3) Makes, assents to or acquiesces in the making of false or deceptive entries, or assents to or acquiesces in the omission to enter a material particular, in any records or books of account;
 - (4) Fails to comply or interferes with or has contravened Article 5;
 - (5) Wilfully, in any manner, evades or attempts to evade:
 - (a) Paying tax;
 - (b) Remitting tax; or
 - (c) Otherwise complying with this chapter; or
 - (6) Conspires with any person to commit an offence described in Subsection A(1) through (5).
- B. In addition to any penalty otherwise provided by this chapter, every person is liable on conviction of an offence under Subsection A to a minimum fine of \$500 for each day during which the offence continues, not exceeding a maximum fine of \$10,000 for each day during which the offence continues.

§ 758-10.2. Offence, general.

Subject to § 758-10.1, every person who knowingly contravenes any provisions of this chapter is guilty of an offence and on conviction is liable to a fine not exceeding a maximum total fine of \$100,000, if no other penalty is provided for the offence.

§ 758-10.3. Special fines.

Every person who contravenes any of the provisions of this chapter and is found guilty of an offence may be subject to a special fine, imposed in addition to any other fine imposed as a result of a contravention of the chapter, in an amount the court deems appropriate to eliminate or reduce the possible economic advantage that a person may otherwise receive by contravening this chapter.

ARTICLE 11
Recovery of Tax

§ 758-11.1. General.

Upon default of payment of an amount assessed under Article 7, the Chief Financial Officer may bring an action for the recovery of the amount in any court in which a debt or money demand of a similar amount may be collected and every such action shall be brought and executed in and by the name of the City.

§ 758-11.2. Remedies for recovery of tax.

The use of any of the remedies provided by this section does not bar or affect any of the other remedies herein provided, and the remedies provided by this chapter for the recovery and enforcement of the payment of any amount required under this chapter are in addition to any other remedies existing at law, and no action or other proceeding in any way prejudices, limits or affects any lien, charge or priority existing under this chapter or at law in favour of the City.

§ 758-11.3 Referral to bailiff or collection agency.

The Chief Financial Officer may refer the collection of any tax payable or required to be remitted to a bailiff or collection agency.

§ 758-11.4 Garnishment and liens.

- A. The Chief Financial Officer may garnish any amount of tax payable from amounts owing to an operator by a third party.
- B. The Chief Financial Officer may register a lien on any property in which accommodation has been provided and for which tax remains owing.

§ 758-11.5 Revocation of registration.

If any amount of tax payable remains owing by an Operator of Short-Term Rentals, the City's Executive Director of Municipal Licensing and Standards may revoke the Operator's registration under the City's short-term rental licensing and registration regime.