



Accommodation Operator Tax

Presentation at Osoyoos Indian Band Taxpayer Meetings
March 13-14, 2020
Kathryn Deo, Barrister & Solicitor
Arbutus Law Group LLP

Overview

- What is an accommodation operator tax?
- What types of accommodations are taxed?
- Why charge accommodation operator tax?
- Authority to charge accommodation operator tax
- Taxes on accommodation in British Columbia
- Reporting and payment requirements
- Who pays accommodation operator tax
- Scenarios
- Timeline



What is the Accommodation Operator Tax?

- A form of Business Activity Tax (“BAT”) under 5(1)(a)(iv) of the *First Nations Fiscal Management Act* (“FMA”)
- accommodation operator tax is a tax charged on operators who sell short-term accommodations on Osoyoos Indian Band (“OIB”) reserve lands
- an “operator” is a person who sells, provides, or offers to sell accommodation on the reserve, but does not include a tourism agent



What is the Accommodation Operator Tax?

- the tax rate is 3% on gross revenues received by an operator on the sale of accommodations during a reporting period
- gross revenues include money, services and property given in exchange for accommodation
- does not overlap with the Municipal and Regional District Tax (“MRDT”) charged on accommodation in the Town of Osoyoos



What Types of Accommodations are Taxed?

- hotels, motels and resorts
- boarding, lodging or rooming houses
- bed and breakfasts
- bunkhouses, cabins, condominiums, dormitories, hostels, vacation homes, mobile homes, trailers and stationary vehicles



What Types of Accommodations are Taxed?

- RV parks and campgrounds
- dwellings operated by clubs and associations, whether or not a membership is required for the use of the dwelling
- residential dwellings



Why Charge Accommodation Operator Tax?

- OIB accommodation tax will be placed in a local revenue account and spent in accordance with an expenditure law of the OIB
- OIB local revenues are spent on local services such as police, firefighting, roads and streets, water supply, recycling, etc.
- local services may also be used to join with nearby local governments in promoting tourism in the region



Authority to Charge Accommodation Operator Tax

- the Accommodation Tax Law is enacted under the *First Nations Fiscal Management Act* (“FMA”)
- OIB is scheduled to the FMA
- all laws enacted under the FMA must comply with the FMA and its regulations, and with standards developed by the First Nations Tax Commission (the “FNTC”)
- FMA taxation laws do not come into force until they are enacted by the Council and approved by the FNTC



Taxes on Accommodation in British Columbia

- BC has implemented the Municipal and Regional District Tax (“MRDT”) on sales of certain short-term accommodations
- in the Town of Osoyoos, MRDT is 3%
- MRDT is implemented widely across the province, and operators are subject to this tax in most tourism areas of British Columbia
- MDRT is used to support tourism marketing, programs and projects



Reporting and Payment of Tax

- an accommodation tax Return must be submitted within 30 days of the end of each quarterly reporting period
- reporting periods end on March 31, June 30, September 30 and December 31
- accommodation tax must be paid when the Return is filed
- accommodation tax can be paid electronically, or by cheque, cash, money order or bank draft



Who Pays Accommodation Tax

- accommodation tax is a tax on the operator, not the consumer
- accommodation tax should not be added to customer invoices



Scenarios

1. I am an operator but my business had no gross revenues in the last quarter. Do I still have to file a Return?
 - A Return must be filed on time, even if gross revenues are zero in a quarter.
 - Gross revenues would be listed as \$0, and no accommodation tax would be payable.



Scenarios

2. I received only \$400 in gross revenues in the last quarter from campsites in my campground. Do I have to pay accommodation tax, and how much?

- A Return must be filed on time, and the accommodation tax must be paid.
- Accommodation tax payable will be:

$$\$400 \times 3\% = \$12$$



Scenarios

3. I provide all-inclusive packages that include accommodations. How do I calculate my gross revenues?
- The accommodation tax only applies to the fair market value reasonably attributed to the sale of accommodation alone.
 - You will have to determine what portion of your sales is for accommodation alone, and that amount will be your gross revenues. For example, if your total sales were \$5000 and the amount attributed to accommodation was \$3000, then accommodation tax payable will be:

$$\$3000 \times 3\% = \$90$$



Scenarios

4. Most of my customers use online platforms like booking.com to book accommodations at my motel. Do I have to remit the accommodation tax?
 - Yes, you are required to submit a Return and pay accommodation tax on your gross revenues. Online accommodation platforms such as Airbnb and booking.com will not collect and remit the tax for you.



Scenarios

5. I am planning to rent out my suite for a week in exchange for some renovation work on my property. I normally charge \$1000 per week for the suite, and the value of the renovation work will be \$1000. Do I have to pay the tax?
- Yes. You must include the value of services (and other property) received in exchange for accommodation as part of your gross revenues. Accommodation tax payable will be:

$$\$1000 \times 3\% = \$30$$



Scenarios

6. I rent out apartments for periods of one month or more. Do I have to file a Return and pay the accommodation tax?
- You do not have to submit a Return or pay accommodation tax.
 - The tax does not apply to accommodation that is continuously occupied by the same person for 28 days or more.



Law Development: Process and Timeline

- Council approves-in-principal proposed Accommodation Operator Law
- 45-day representation period starts
- extended by 30 days if representations are received
- Council enacts the Law and sends it to FNTC for approval
- PTT Law comes into force the day after it is approved by FNTC



Questions?

Alanea Holmstrom, Tax Administrator
Osoyoos Indian Band

1155 Sen Pok Chin Blvd
Oliver, BC V0H 1T8

telephone: (250) 498-3444 ext. 3035
email: aholmstrom@oib.ca

