

**TOWN OF THE PAS**

**BY-LAW NO. 4535**

**BEING A BY-LAW OF THE TOWN OF THE PAS TO IMPOSE A TAX ON ACCOMMODATION OF SHORT DURATION IN ORDER TO SUPPORT COMMUNITY ENHANCEMENT PROJECTS, RECREATIONAL INFRASTRUTURE AND THE DESTINATION MARKETING AND TO REPEAL BY-LAW NO. 4448.**

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**WHEREAS** The Municipal Revenue (Grants and Taxation) Act provides that the Council of a Municipality may pass by-laws 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 and motel accommodation;

**AND WHEREAS** a tax on accommodations of short duration within the Town of The Pas is intended to generate revenue to support organizations, projects and events that will encourage tourists to visit The Pas. Accommodation Tax revenues will be placed in the following reserve funds:

1. Community Enhancement Reserve Fund (50%)
2. Recreational Infrastructure Reserve Fund (25%)
3. Destination Marketing Reserve Fund (25%)

**NOW THEREFORE** The Town of The Pas, in Council assembled, enacts as follows:

**Short title**

1. This By-law be referred to as the **Accommodation Tax By-law**.

**Definitions**

2. In this By-law:

**“accommodation”** means lodging, and the right to use lodging, that is provided for consideration, whether or not the lodging is actually used;

**“accommodation tax”** means the tax imposed by Section 3 of this By-law;

**“Community Enhancement Reserve Fund”** means the Town of The Pas reserve fund which is for the specific purpose of community enhancement projects that make The Pas a safe and welcome community. These projects are to be determined by Mayor and Council for the Town of The Pas.

**“Destination Marketing Reserve Fund”** means the Town of The Pas reserve fund established for the purpose of providing financial means for promoting economic development by increasing visits to The Pas which generate overnight stays, visits to restaurants and shopping venues, for example: hockey tournaments, home coming celebrations, business conferences and events that create economic development. This fund will be administered through a Destination Marketing Committee.

**“establishment”** means a business that provides accommodation at a particular location;

**“lodging”** includes:

- a) the use of a bedroom, a suite of rooms containing a bedroom or the use of a bed within a bedroom;
- b) the use of one or more additional beds or cots in a bedroom or suite; and
- c) food, drink, entertainment, use of equipment or facilities, and other amenities and benefits where these are included in the purchase price without additional charge to the purchaser;

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“operator” means a person who sells, offers for sale, or otherwise provides accommodation;

“purchase price” means the price for which accommodation is purchased, including the price paid in money, the value of goods provided or services rendered or other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax imposed by the Government of Canada nor the retail sales tax imposed by the Province of Manitoba.

“purchaser” means a person who purchases accommodation;

“Recreational Infrastructure Reserve Fund” – means the Town of The Pas reserve fund which is for the specific purpose for recreational facilities and structures, which would enable the town of The Pas to host and or sponsor events which would bring people to the community. This is to be determined by Mayor and Council for the Town of The Pas.

“tax collector” means the Chief Financial Officer of the Town of The Pas and any employee of the Town appointed to administer or enforce all or part of this By-law;

“taxation period” means the period, either monthly or quarterly, determined by the operator in accordance with this by-law for the remittance of tax to the tax collector;

#### **Application of tax**

- 3(1) Subject to this section, a purchaser must, at the time of purchasing accommodation, pay an accommodation tax in the amount of 5% of the purchase price of accommodation provided for a continuous period of 60 nights or less whether provided in a hotel, motel, inn, housekeeping unit, lodging house, boarding house, rooming house, bed and breakfast establishment, resort, hostel, dormitory, or any place in which accommodation is provided.
- 3(2) For greater certainty, the continuous period referred to in subsection (1) is not disrupted by the purchase of different rooms, suites, beds or other lodging in the same establishment in the course of the continuous period.
- 3(3) The accommodation tax imposed by subsection (1) does not apply to:
- (a) accommodation provided in establishments in which fewer than four bedrooms are available for purchase separately;
  - (b) 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, a residential care home licensed under The Health Services Insurance Act or a residential care facility licensed under The Social Services Administration Act;
  - (c) accommodation provided exclusively for individuals or their family members who do not reside in The Pas and who are in The Pas to receive medical treatment, to undergo testing at a hospital or Provincially-approved medical facility, or to seek medical advice or treatment from a medical specialist.
  - (d) accommodation provided to a student by an educational institution while the student is registered at and attending the institution.;
  - (e) accommodation provided by a registered homeless shelter;
  - (f) accommodation supplied by employers to their employees in premises operated by the employer;
  - (g) tent or trailer sites supplied by a campground, tourist camp or trailer park;
  - (h) a hospitality room in an establishment that
    - (i) does not contain a bed;
    - (ii) is not in a suite that contains a bed; and
    - (iii) is used for displaying merchandise, holding meetings or entertaining;
- 3(4) The tax collected under subsection 3(1), remitted to the tax collector under subsection 5(2) and not refunded under section 6 is to be deposited appropriately into the designated reserve funds; fifty percent (50%) into Community Enhancement Reserve Fund for use by Mayor and Council, twenty-five percent (25%) into the Recreational Infrastructure Reserve Fund and twenty-five percent (25%) into the Destination Marketing Reserve Fund to be administered by the Destination Marketing

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Committee. All deposited funds will be used only in accordance with the terms of each individual fund.

- 3(5) Fifty percent (50%) of the monies currently held in the Destination Marketing Reserve Fund will remain in this fund and fifty percent (50%) is hereby transferred to the Recreational Infrastructure Reserve Fund.

**Tax collected by operator**

- 4(1) An operator must, as an agent for the tax collector, collect the accommodation tax from the purchaser at the time the accommodation is purchased.
- 4(2) The amount of the accommodation tax must be shown as a separate item or charge on a bill, receipt, invoice or similar document issued by the operator in respect of accommodation on which the tax is imposed.
- 4(3) An operator shall be permitted to a holdback of accommodation fees collected in the first quarter in the amount of \$500.00. The holdback amount shall be clearly outlined on the accommodation tax form. This holdback shall be permitted one time only, to accommodate expenses an operator may incur as a result of setting up their accounting systems to collect the aforesaid accommodation tax.

**Tax Remitted and Statement submitted by operator**

- 5(1) An operator may remit the accommodation tax in either monthly or quarterly taxation periods.
- 5(2) An operator must remit to the tax collector at the end of every taxation period for each establishment the operator operates:
- a) the amount of the accommodation tax that was collected by the operator during that taxation period;
  - b) the amount of the accommodation tax that should have been collected by the operator during that taxation period; and
  - c) the amount that was collected in error by the operator during that taxation period and that has not been refunded to the purchaser.
- 5(3) The Town of The Pas may, from time to time, by Council resolution, authorize accommodation tax discounts or commissions for operators. Notwithstanding subsection (2), an operator need not remit to the tax collector an amount to which the operator is entitled by way of discount or commission pursuant to any resolution.
- 5(4) An operator must, on a form provided by the tax collector, submit to the tax collector at the end of every taxation period a statement for each establishment the operator operates, which statement must contain information reasonably required by the tax collector to administer or enforce this By-law including:
- a) the total revenue earned by the establishment from the sale of accommodations during the taxation period;
  - b) the amount of revenue earned from the sale of accommodations during the taxation period that is not subject to the tax;
  - c) the amount of revenue earned from the sale of accommodations during the taxation period that is subject to the accommodation tax;
  - d) the total accommodation tax collected;
  - e) the amount of accommodation tax being retained by the operator on account of any authorized discount or commission; and
  - f) the total accommodation tax remitted.
- 5(5) Unless otherwise permitted by the tax collector, the obligation in subsection (4) to provide a statement applies even when no taxes have been collected.
- 5(6) The obligation in subsection (2) to remit taxes and the obligation in subsection (4) to submit a statement must be met no later than the 20<sup>th</sup> day of the month following the taxation period for which the taxes were payable and for which the statement is applicable.

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**Refunds**

- 6(1) The tax collector shall refund to an operator all or a portion of an amount that was collected as if it were the accommodation tax if, within one year of the collection and remittance of the amount, the operator provides proof that:
- a) the amount was collected notwithstanding that it was not payable as an accommodation tax.
  - b) the amount was remitted to the tax collector; and
  - c) the amount has been refunded by the operator to the purchaser.
- 6(2) In complying with subsection (1), the tax collector may deduct the amount of the refund payable to the operator from the amount of the tax that the operator is required to remit under this By-law.
- 6(3) The tax collector shall refund to a purchaser all or a portion of an amount that was paid as if it were the accommodation tax if the purchaser applies for the refund within one year of the payment of the tax and provides evidence that:
- a) the amount was paid notwithstanding that it was not payable; and
  - b) the operator has refused to refund the amount to the purchaser;
- so as long as the amount was remitted by the operator to the tax collector and has not been refunded to the operator the tax collector.
- 6(4) The tax collector shall refund to a purchaser all of the accommodation tax paid in respect of accommodation purchased by or on behalf of an individual or one or more of the individual's family members during such time as the individual is in The Pas to receive medical treatment or to undergo testing at a hospital or provincially-approved medical facility or to seek medical advice or treatment from a medical specialist if:
- a) the individual and, where applicable, the individual's family member or members do not reside in The Pas and have purchased temporary accommodation in The Pas while the individual is receiving medical treatment at a hospital, undergoing testing at a hospital, or seeking specialist medical advice or treatment; and
  - b) within one year of the accommodation having been purchased, the tax collector receives a letter from the hospital, medical family or physician licensed to practice medicine in the Province of Manitoba stating that:
    - i) the individual and the individual's family member or members do not reside in The Pas; and
    - ii) the individual was required to be in The Pas to receive medical treatment at a hospital, undergo testing at a hospital, or seek specialist medical advice or treatment on or between specific dates.

**Inspection, audit and collection**

- 7 The tax collector has the powers of a designated employee under The Municipal Act for the purposes of administering and enforcing this By-law and, without restricting any other powers he or she may have, he or she, or agents acting under his or her authority, may, for the purpose of enforcing this By-law, enter any establishment.
- a) to collect the tax imposed by this By-law, if necessary;
  - b) to audit the books, records, including without limitation electronic records, and accounts of the operator for the purpose of ascertaining the amount of tax to be collected and remitted;
  - c) to place in the lobby or other part of the establishment such notices regarding the tax as the tax collector may consider necessary;
  - d) to 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 By-law; and
  - e) make and remove copies of any documents or records required in the administration of this By-law.

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**Appeals**

- 8 Where an order or decision under this By-law is subject to appeal, the appeal may be made in accordance with The Municipal Act to the Finance and Administration Committee.

**Address for service**

- 9 Where an address for service under this By-law is required, one of the following shall be used:
- a) if the person to be served is an operator, the street address of the establishment of which he or she is the operator;
  - b) if the person to be served is not an operator, the address provided by that person in communication with the tax collector.

**Interest penalties**

- 10(1) A penalty equivalent to the produce of 1.25% and the amount of unremitted taxes shall be applied to taxes imposed by Section 3 that are required to be remitted by subsection 5(2) but have not been remitted by the date specified in subsection 5(6).
- 10(2) The penalty imposed by subsection (1) shall be compounded monthly on the 20<sup>th</sup> day of each succeeding month.
- 10(3) Once compounded, the penalties form part of the unremitted taxes and in subsequent months, penalties shall be charged upon the previous month's compounded amount until the taxes are remitted.

**Other penalties**

- 11 Every person who fails to comply with the provisions of this By-law is guilty of an offence and, in addition to being liable for payment of the penalty imposed by section 10, is liable on summary conviction
- a) for failing to collect or remit the tax, to a fine that is not less than double the amount of the tax that should have been collected and remitted to the tax collector;
  - b) for failing to comply with other provisions of this by-law,
    - i) if an individual, to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment;
    - ii) if a corporation, to a fine not exceeding \$50,000.00.

**Transition measure**

- 12 As a transition measure, upon application by a purchaser prior to the approval of this by-law, the tax collector shall refund to a purchaser the accommodation tax paid in respect of accommodation arrangements made in writing 6 months prior to the passing of this By-law.

**Confidentiality**

- 13 The tax collector shall be bound by The Freedom of Information and Protection Privacy Act in carrying out the collector's duties pursuant to this By-law.

**Severance**

- 14 If any provision of this by-law shall be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this by-law and the remaining provisions shall continue in full force and effect, provided that doing so would not frustrate the intent and purpose of this by-law.

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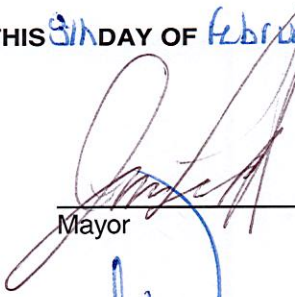
**Repeal**

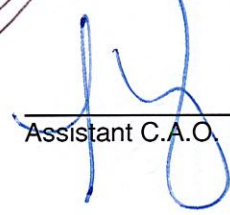
15 By-Law No. 4448 be hereby repealed.

**Coming into force**

16 That this by-law shall come into force upon receiving approval by the Lieutenant Governor in Council.

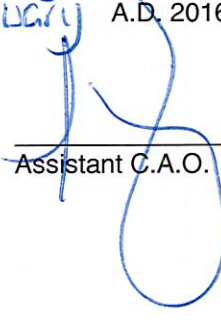
DONE AND PASSED IN COUNCIL ASSEMBLED THIS 31<sup>st</sup> DAY OF February A.D. 2016.

  
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Mayor

  
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Assistant C.A.O.

CERTIFIED THAT BY-LAW NO. 4535 WAS:

READ A FIRST TIME THIS 25<sup>th</sup> DAY OF January A.D. 2016.  
READ A SECOND TIME THIS 31<sup>st</sup> DAY OF February A.D. 2016.  
READ A THIRD TIME THIS 31<sup>st</sup> DAY OF February A.D. 2016.

  
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Assistant C.A.O.