

Guidance Notes

**Yellowknife Accommodation Levy &
Destination Marketing Organization**

Decision Points & Choices



LEVY DECISION POINTS AND CHOICES

- **Choice of a mandatory or voluntary Accommodation Levy?**
 - Mandatory levies have a higher record of sustainability and generate greater revenues. The trend in Canada is to mandatory levies with no new voluntary levies introduced in the last year.
 - Voluntary levies are less sustainable since accommodation providers can withdraw from participation at any time for any reason. The highly successful Canmore Destination Marketing Organization had to shut down in 2016 primarily for this reason. The hotels kept cancelling until only 20% were participating. The Town of Canmore is still trying to deal with the fallout.

- **Defined Accommodation Levy purpose(s)**
 - Most mandatory levies have a somewhat broadly defined purpose tied to the words “destination marketing.” The descriptions of eligible activities or projects are stated in positive term – not in exceptions.
 - The most common exemptions are for “visitor services” and “capital and infrastructure projects.” However there are occasions in Canada where funds raised through an Accommodation Levy are being used for both.
 - Using the Levy revenues to replace existing funding sources is vigorously discouraged. It is often explicitly stated that the funds raised through an Accommodation Levy cannot replace already existing funding from public sources like municipal and provincial governments.

- **Passage of Enabling Territorial Legislation**
 - In Canada a municipality’s taxation powers are limited to those specifically granted to it by a higher level of government. This means that the power to pass a By-Law requiring the collection of an “accommodation tax” must be granted to the municipality by the provincial or territorial government. In the NWT the Legislative Assembly of the NWT would need to pass or amend legislation to grant such powers to Yellowknife or other specific NWT municipalities. That is why the City of Yellowknife has asked for the passage of such legislation.

- **Passage of Enabling Municipal By-Law**
 - If Yellowknife is granted the authority to pass a By-Law imposing an Accommodation Levy the City will need to set out the reasons for the By-Law; how the Levy mandated under the By-Law is to be collected; from whom it is to be collected; how much is to be collected; remedies for non-remittance; general purposes for which the collected revenues can be used; provision for the costs of collection; conditions on the use, approval processes and reporting requirements for any organizations that receive funds collected under the By-Law

- **Accommodation Levy is collected from whom?**
 - An Accommodation Levy is, by definition, collected on the purchase of accommodation within a specific jurisdiction. The range of accommodation to which the Levy applies has evolved over time. The general understanding is that it is fair to tax visitors who use and benefit from the full range of local services, attractions and the marketing efforts that have drawn them to a specific city or region. That is why the Accommodation Levy is only applied in situations in which a visitor can be reasonably identified as a tourism type of visitor by the duration of their stay in short term accommodation.
 - Most jurisdictions have had to recognize that there needs to be a cutoff point where the accommodation is no longer considered short term. Almost universally the period of one month is recognized as the difference between short term accommodation and longer term. Most municipalities have chosen 30 days as the dividing line. So, continuous accommodation rental for a period of 30 days or greater is considered to be exempt from an Accommodation Levy on short term accommodation.
 - The Accommodation Levy is collected from the person or organization that pays the bill for the accommodation.
 - In most Canadian municipalities the Accommodation Levy is collected from operators of facilities with four rooms or more for rent. Operators of facilities with three rooms or fewer for rent are considered to be more like the original B&B concept which was to rent out a spare room in one's house to help supplement a family's income. Since very few homes would ever have more than three extra bedrooms the cutoff at three rooms became the common practice. B&B operations with four rooms or more were considered as commercial enterprises in some ways similar to hotels.
 - There are no Canadian examples of Accommodation Levies being collected from all providers of short term accommodation, including retails through AirB&B and other online short term booking sites. However, in the United States some jurisdictions including New York City are moving in that direction.

- **How much is to be collected?**
 - In order to make it practical to collect an Accommodation Levy it would have to generate sufficient funds to make collection worthwhile. Since the generally agreed reason for collecting an Accommodation Levy is to fund tourism "destination marketing" the amount to be collected needs to be adequate to sustain a credible multi-year program. There are no circumstances in Canada of a general Accommodation Levy being introduced short term.
 - In Canada the amount of specified Accommodation Levies is between 1% and 5%, with the municipality making the final choice based on their anticipated needs. The most common current level is 3%.

- **When and how is the accommodation Levy to be collected?**
 - In Canada, the Accommodation Levy is normally paid upon “check-out”. However in situations where a reservation requires the payment of the cost of accommodation in advance the Levy is paid at the time of booking and has to be remitted by the booking organization (just as GST and PST are similarly paid in advance and remitted).

- **Collected by whom?**
 - The Accommodation Levy is collected by registered accommodation providers in applicable jurisdictions.

- **Exemptions from collection?**
 - If there is an exemption it needs to be specified in the municipal By-Law authorizing the Accommodation Levy or in the provincial/territorial legislation enabling the municipality to pass a By-Law to collect an Accommodation Levy.
 - The most common exemptions are:
 - Individuals travelling for “registered health practitioner” prescribed treatment or consultations. Medical escorts required/permitted by Territorial regulation are also exempt.
 - Students living in college/school owned and operated facilities during the term of their studies.
 - Diplomats with proper identification.
 - In some cases employees of governments who are on “duty travel”, and paying with government issued credit cards, are considered exempt. This is certainly the case in the United States where federal government employees travelling on government business and paying with U.S. Government credit cards are exempt from Accommodation Taxes and Levies.

- **Record of collection?**
 - In most cases it is the responsibility of the accommodation provider to set up and maintain an auditable record of funds collected, reconciled against the total room nights and total funds collected for providing accommodation. It is understood that software is available for purchase by accommodation providers to set up and maintain records of the Accommodation Levies collected. In some jurisdictions an allowance of up to \$500 has been made to assist in the cost of setting up a system.

- **Record of exemptions?**
 - In most cases it is the responsibility of the accommodation provider to set up and maintain an auditable record of exemptions granted with a record of the reason.

- **Levy remitted to whom?**
 - In most cases the funds collected under the Levy are remitted, along with other reporting data, to the tax office within the municipality.

- **Penalties for late remittance or non-remittance of Levy**
 - Municipalities use a combination of late payment charges and interest penalties and specified penalties under the enabling municipal By-Law. In the later case these are similar to summary conviction penalties that escalate with the number of offences. In the latter case a provision for some sort of hearing or trial needs to be built into the By-Law.

- **Collection and administration cost provisions**
 - Some Canadian municipalities do not appear to charge any service fee associated with the collection and administration of the Levies.
 - Others charge a percentage of the total fees collected and deduct these before remitting the fees collected to the Destination Marketing Organization. In British Columbia the collection and administration fee is a flat 1% of the total fees collected.

- **Role of the City in Monitoring Expenditures**
 - The municipality does not have a day-to-day or month-to-month role, in monitoring DMO expenditures against the DMO's budget. However in virtually all cases the municipality has an annual role in receiving and reviewing financial reporting from the Destination Marketing Organization's sponsoring not-for-profit Society.
 - The City also has, in most cases, a seat (or more than one) on the not-for-profit Society's Board of Directors. The Board meets on a schedule provided in the Society's By-Laws – normally monthly.
 - In many cases, the not-for-profit Society that operates the DMO also enters into a "Services Agreement" with the municipality to provide specific DMO services over a specific period of time, subject to additional reporting requirements.
 - Ultimately the City retains the power to suspend payment of the Levies collected if the Services Agreement is violated or other authorities are being exceeded.

DMO DECISION POINTS AND CHOICES

Destination Marketing Organizations (DMOs) have evolved over the last 100 or more years based on two overlapping sets of interests. One is the interest of governments in economic development and the creation of sustainable employment opportunities. The other is the interest of private sector businesses in banding together to promote individual business growth and the creation of wealth through tourism infrastructure development, providing access to tourism attractions, entertainment and recreational activities. With such overlapping interests it is not surprising that both the public and private sectors have a lot in common and a lot at stake.

While national, provincial and territorial DMOs are usually an extension of senior government levels, municipal and regional DMOs are more commonly some form of public/private partnership. However, it is also because of the dual nature of these motivations that creating and sustaining successful municipal DMOs for a public/private base has challenges.

Challenged by the need for sustainable growth, Yellowknife is looking to increase marketing of the city and its many attractions as a highly attractive year round tourism destination. Following the lead of many other Canadian cities Yellowknife is proposing that a mandatory Accommodation Levy be introduced to fund a vigorous and ongoing destination marketing program.

To this end, Yellowknife has taken the first steps to make it possible to fund a DMO by asking for permission to collect a mandatory Accommodation Levy. The next step will be to facilitate the creation of an independent, not-for-profit organization with the breadth of vision to draw the interests and expertise of all stakeholders into implementing an ongoing destination marketing program for the City of Yellowknife.

- **Determining Yellowknife DMO Program and Activity Mandate**

It will be important for the City of Yellowknife to identify the activities intended to be funded from the proceeds of an Accommodation Levy. It is also important to clearly state that the Accommodation Levy is not intended to be the DMO's only source of funding. Almost all DMOs except the very smallest ones in B.C. have more than one funding source. Common activity sectors are listed below. It may be necessary to include or exclude items based on anticipated revenue.

- Destination Marketing (Including advertising, promotions, websites, social media, trade shows and fam tours)
- Convention, Event and Meetings Sales
- Market Research & Performance Measurement
- Visitor Services

- **Initial Organizational Steps By the City of Yellowknife**

Providing that the collection of a municipal Accommodation Levy is approved by the GNWT, there are a number of organizational steps that will need to be taken by the City of Yellowknife to lay a solid foundation for destination marketing success.

The first step will be to help facilitate the formation of the DMO. To do this the City could bring together City of Yellowknife staff and public/private tourism marketing and economic development stakeholders in a workshop. The workshop would be used to help shape the focus, roles and responsibilities of a Yellowknife Destination Marketing Organization. Drawing on those discussions, a statement of purpose could be drafted to include goals and intended operations, governance requirements and suggested Constitution and By-Laws for the incorporation of a public/private not-for-profit society under the *NWT Societies Act*.

The draft would then be circulated to all attendees and others that the City would like to include for review and comment.

- **Two DMO Formation and Organizational Options**

It is likely that two organizational options will have been considered by stakeholders in the workshop referenced above.

One organizational option could be a “Conventional DMO” governed by a separate not-for-profit Society with the sole purpose of marketing Yellowknife as an extraordinary, year-round tourism destination. The other organizational option could involve “refocusing an existing Yellowknife not-for-profit organization” to make destination marketing its primary purpose.

If the “refocusing of an existing organization” option is chosen it will be very important for that organization to re-position itself as the Yellowknife destination marketing organization and not treat Yellowknife destination marketing as an add-on to its existing purpose and activities. Failure to do this will almost inevitably lead to a conflict of interest in the allocation of the DMO financial and staff resources. It would also interfere with the existing organization’s own brand and limit the potential for Yellowknife to develop its own independent, market focused brand.

Across Canada there are no DMOs that operate as a unit within another not-for-profit organization. However there is no reason why specific administrative, creative, communication and marketing services could not be contracted out by a Yellowknife DMO to qualified individuals or organizations.

If a “Conventional DMO” option is chosen “Destination Yellowknife” could look like the following:

- “Destination Yellowknife” to be incorporated and registered as an NWT Not-for-Profit Society.
- The By-laws of the Society to provide for a suggested 13-member Board of Directors to serve rotating two year terms. The By-Laws to be drafted to provide for Board of Directors to have the authority to amend the By-Laws as required to meet future needs.

- The City of Yellowknife to appoint three directors. Of these one could be a member of the Yellowknife City Council and one could be employed as a member of the City of Yellowknife Administration staff
- The Yellowknife Hotel Association could appoint three directors since they are the primary funding source through the Accommodation Levy.
- NWT Tourism could appoint one director
- Tourism operators could appoint one director
- GNWT could appoint one director
- Yellowknives Dene First Nation or Aboriginal Tourism could appoint one director
- Stakeholders to elect three directors at the Society's incorporating AGM and at subsequent Annual Meetings.

With assistance from City of Yellowknife, the Board could then initiate a search for and hire an Executive Director with appropriate marketing experience to work with the Board to prepare the Annual Business and Marketing Plans. The Business Plan would be based on a Marketing Strategy developed by the Society's Board of Directors in collaboration with the new Executive Director.

In the interests of efficiency and effectiveness, the Board may elect to have the Executive Director proceed with the following:

- Hire a marketing and communications professional to support the efforts of the Executive Director.

If a "Refocusing" model is chosen, "Destination Yellowknife" might take the following steps to bring its programs into existence.

- "Destination Yellowknife" to be incorporated and/or registered as an NWT not-for-profit Society by having an existing Society refocus its activities, constitution and by-laws.
- The By-laws of the Society to provide for the appointment of a 13-member Board of Directors to serve rotating two year terms.

With assistance from City of Yellowknife the Board could then initiate a search for and hire an Executive Director who will prepare the Business Plan. The Plan will be based a Marketing Strategy developed by the Executive Director in collaboration with the Board of Directors.

Once the strategy has been approved, the Executive Director will work with the Board of Directors to develop marketing and administrative services RFP packages to be advertised to provide for contracting out administrative and marketing services with appropriate organizations.

- **Confirmation of DMO funding sources and commitments**
 - Annual DMO funding revenues forecast is an important consideration in strategic marketing planning, staffing and brand development. Based on 2016 Yellowknife accommodation level with GNWT employees on duty travel deleted (medical travel not currently estimated).
 - 1.0% \$366K
 - 1.5% \$543K
 - 2.0% \$732K
 - 2.5% \$950K
 - 3.0% \$1,098K
 - 3.5% \$1,281K
 - City of Yellowknife contribution to the operation of Yellowknife Visitor Services (NFVA) and GNWT contribution to Yellowknife Visitor Services (NFVA) not included.

- **City commitment to a Levy management process**
 - The City of Yellowknife will commit to a Levy collection and management process, including the timely transfer of Levy funds received. This will provide the DMO with a predictable cash flow from the Levy.

- **DMO Year 1 and 2 Line-of-Credit Guarantee**
 - In the first two years (or possibly longer) of operations, the DMO will need access to a LOC to adjust to varying levels of cash flow. It is recommended that a LOC equal to 1/4 of the first year's DMO operating budget be made available by the City of Yellowknife for a specified period – beyond which the DMO should have been able to save sufficient funds to handle variations in cash flow.

- **DMO annual marketing plans and budget to require City of Yellowknife and Not-for-Profit Society Board approvals**
 - Since the funds raised by an Accommodation Levy are essentially a “municipal tax” the City of Yellowknife that collects the tax bears a responsibility for the use of the proceeds of that tax. For that reason the City of Yellowknife may be advised to play a role in setting up the not-for-profit Society that will form and manage the DMO.
 - For the same reason it makes sense that the City of Yellowknife will also play a role in reviewing and approving annual DMO budgets. A review of other DMOs across Canada suggests that municipalities generally take a “high level” approach to reviews of their local DMO's plans and budgets – with detailed reviews being left to the Board of the

not-for-profit Society that has the responsibility for hiring and directing the CEO of the DMO and for reviewing and approving or amending annual plans and budgets of the DMO.

- **DMO staffing and Board approvals**

- Most DMOs have a CEO or Executive Director who is hired by and reports to the Board of Directors of the not-for-profit Society. The CEO is then responsible for hiring other DMO staff, preparing and submitting annual plans, budgets and reporting to the Board of the not-for-profit Society.
- In very small DMOs they may function like an extension of the municipal government staff (the City of Langley, B.C. is an example with a total budget of \$150,000 and a services contract with a sole supplier).

- **Negotiation of “Specified Services Contracts” between City and Society**

- In some cities (for example St. John, NB and Regional Municipality of Halifax, NS) DMOs are moving towards “specified services” contracts between the municipality and the not-for-profit society that directs the DMO. The scope of work to be performed is “negotiated” annually between the City/RMH and set out in a contract that includes work to be done, performance measures and budgets.
- This formalization of the process is spoken of highly by those involved.

- **City, Stakeholder and Public reporting – Operations and Financial**

- In most cases reporting on the activities and finances of the DMO is performed by the not-for-profit Society that manages the DMO.
- There is increasing emphasis on accountability and transparency and many DMOs are now making their full annual program planning and budget allocations public from the day of approval.
- There is also increasing emphasis on DMOs reporting on not just “outputs” but also measureable “outcomes.” This is being led by DMOs in British Columbia that all must report on both on an annual basis.

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